

BILL GALVANO
President of the Senate



JOSE R. OLIVA
Speaker of the House



Joint Legislative Auditing Committee

Senator Jeff Brandes, Chair
Representative Jason Fischer, Vice Chair

Meeting Packet
Thursday, February 7, 2019
1:30 p.m. to 3:30 p.m.
110 Senate Office Building

The Florida Legislature
COMMITTEE MEETING AGENDA
JOINT LEGISLATIVE AUDITING COMMITTEE

Senator Jeff Brandes, Chair
Representative Jason Fischer, Vice Chair

MEETING DATE: Thursday, February 7, 2019

TIME: 1:30 p.m. to 3:30 p.m.

PLACE: Room 110, Senate Office Building

MEMBERS:

Senator Dennis Baxley
Senator Tom Lee
Senator Bill Montford
Senator Kevin Rader

Representative Michael Caruso
Representative Chip LaMarca
Representative Sharon Pritchett
Representative Bob Rommel
Representative Jackie Toledo
Representative Patricia Williams

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1. Consideration of a request for an Auditor General operational audit of issues relating to the City of Melbourne received from Representative Fine
 2. Consideration of a request for an Auditor General operational audit of the Citrus County Hospital Board received from Representative Massullo
 3. Presentation of the Auditor General's follow-up audit of the City of Starke, Report Number 2019-003
 4. The Committee is expected to consider taking action against local governmental entities that have failed to file an annual financial report and/or annual financial audit (if required) in accordance with ss. 218.32(1) and 218.39, F.S.
 5. The Committee is expected to consider taking action against local governmental entities that have failed to provide the Auditor General with significant items missing from audit reports submitted in accordance with s. 218.39, F.S.
 6. Presentation of the Auditor General's performance audit of the Local Government Financial Reporting System, Report Number 2019-028
 7. Consideration of the Department of the Lottery's audit for the 2018-19 fiscal year

District Office
2539 Palm Bay Road NE
Suite 5
Palm Bay, FL 32905
(321) 409-2017
(321) 409-2019 (Fax)



Tallahassee Office:
The Capitol
402 South Monroe Street
Tallahassee, FL 32399-1300
(850) 717-5053
Randy.Fine@myfloridahouse.gov

Legislative Aide
Anna Budko
Anna.Budko@myfloridahouse.gov

Randy Fine
Florida House of Representatives
State Representative, District 53

December 7, 2018

Hon. Jeff Brandes
Chair, Joint Legislative Auditing Committee
111 W. Madison Street
Tallahassee, FL 32399-1400

Dear Sen. Brandes,

I request that the Joint Legislative Auditing Committee authorize a targeted operational audit by the Auditor General of the City of Melbourne, a portion of which I represent, focused on questionable spending of taxpayer monies on non-profits and/or community redevelopment agencies. Specifically, I'd like to probe the internal controls, statutory compliance, and results of the City's involvement in the Honor America charity, Melbourne CRA, and Olde Eau Gallie Riverfront CRA as explained further.

Based on numerous documents which have been brought to my attention, I have grave concerns regarding the activities of the City both in respect to the Honor America relationship as well as the Community Redevelopment Agencies ("CRAs") operating within Brevard County.

The first area of my audit request relates to distributions of public funds from the City of Melbourne to a non-profit charity currently suspended by the State of Florida from soliciting contributions: Honor America.

I have been shown documents by Melbourne City Councilman Paul Alfrey that indicate the following:

- 1) As shown in Document A, a current City of Melbourne Councilwoman, Betty Moore, who was simultaneously President of this charity, in February of 2015 made a Council motion for the City to provide \$15,000 to her charity in order to qualify for a matching \$15,000 private grant for the purchase of a new, \$30,000 roof for the building being used by the charity. Councilwoman Moore not only made the motion for the funds to be distributed to her charity, but voted for it.
- 2) It appears there was no verification by the City that such a private donor ever existed, and it appears that none, in fact, did.
- 3) As shown in Document B, rather than get a new roof, after receiving approval for the funds, the charity only procured a minor repair.

- 4) In order to justify receipt of the full \$15,000 tax dollars instead of the much-lower cost of the roof repairs, the charity engaged in a complicated and fraudulent invoicing scheme in which Councilwoman/President Moore provided inflated invoices to the City and then arranged for the roofing contractor to kick-back half of the taxpayer funds to Honor America. Two such fraudulent invoices are attached as Documents C and D; discussion of the kickback scheme is included in Honor America board meeting minutes attached as Exhibit E.
- 5) Ironically, West Melbourne City Councilman John Tice, who worked for Honor America as its Executive Director, intercepted this kick-back and had the roofing contractor rewrite the check to his own non-profit, Brevard Hall of Fame. In late March, now former-Councilman Tice was arrested for fraud in connection with this embezzlement of taxpayer funds.

While the arrest of former Councilman Tice deals with the alleged illegal embezzlement of the taxpayer funds, I believe it is necessary to audit the conditions under which taxpayer funds could be directed to a charity operated by an elected official without any of the necessary controls in place to verify the private donor or the work being conducted. It is my view that had appropriate controls been in place, Councilman Tice would never have been able to steal the funds.

I request that the JLAC direct the Auditor General to perform a targeted operational audit, which focuses on this, and any other transactions, from the City of Melbourne to Honor America and determine whether appropriate controls were in place for the request, authorization, approval, and verification of the appropriate spending of such funds.

The second component of my audit request, made after being brought to my attention by Melbourne Councilman Tim Thomas, relates to CRA expenditures deemed illegal by the Brevard County Attorney.

In late 2017, then-County Attorney of Brevard County, Scott Knox, issued a series of opinions (*see exhibits F and G*) to the Brevard County Board of County Commissioners stating that, in his professional opinion, several CRAs have misappropriated City and County TIF revenue. Following an opinion by Mr. Knox that the Town of Palm Shores CRA had illegally been paying its mayor out of its CRA funds (*exhibit F; see also exhibit H, opinion of the Brevard County Clerk of Courts' Office*), that CRA was voluntarily terminated. However, he has identified more unlawful expenditures throughout the County; unlike the Town of Palm Shores CRA, these CRAs have refused accountability for these expenditures.

In particular, two CRAs operating within the City of Melbourne, Melbourne CRA and Olde Eau Gallie Riverfront CRA, have appropriated CRA funds in order to fund festival activities. The Melbourne CRA and Olde Eau Gallie Riverfront CRA have accomplished this by funneling the funds through a 3rd party organization, which adds another layer of problematic behavior (*see exhibit I*).

However, due to the nature of these expenditures, an operational audit is needed to determine how much revenue has been misappropriated, and the source of those funds (i.e. County TIF, City TIF, or intergovernmental transfer) (*see exhibits J, K*). Furthermore, given that the expenditures on festivals were only brought to light after inquiries from a County Commissioner, it seems entirely possible (if not likely) that other questionable expenditures have taken place. While these CRAs have conducted standard annual audits, these audits typically do not examine compliance requirements specific to CRAs under Chapter 163, Part III, Florida Statutes.

For example, as mentioned above, the Town of Palm Shores CRA had been paying its Mayor an employee salary out of the CRA trust fund for years; while there is little doubt that the auditors were aware of this fact, they likely did not realize this was expressly forbidden under Florida Statute. This illustrates the need to have *operational audits*, conducted by experts familiar with the unique compliance issues of CRAs, which are designed to examine statutory adherence particularized to these agencies.

It should be noted that Brevard County does have some authority to take action regarding the expenditures of County TIF funds as to the Olde Eau Gallie Riverfront CRA. Unfortunately, Brevard County has failed to do so, despite their own County Attorney detailing the unlawful nature of their dealings. Regarding the Melbourne CRA, because this CRA predates the County Charter, the County lacks authority to take action.

For the reasons outlined above, I am very concerned that revenues are being spent in an unlawful fashion by certain CRAs within Brevard County. Without action by JLAC, however, these CRAs will continue to conduct their business in the shadows, with little fear of being held accountable, by hiding behind the complex statutory structure of their agencies and the predictable ignorance of those who audit them. As such, I request that the Auditor General's operational audit scope also include the practices of Melbourne CRA and Olde Eau Gallie Riverfront CRA.

Sincerely,



Randy Fine
State Representative, District 53

CITY OF MELBOURNE, FLORIDA
MINUTES – REGULAR MEETING BEFORE CITY COUNCIL
FEBRUARY 24, 2015

A

Council Member Thomas stated that the All American Flag Act requires all United States flags purchased by the city to be made in the United States with fibers grown in the United States.

LTC (Ret.) Tim Thomas, 2602 Englewood Drive, thanked Council for support of the resolution. The initiative was started by students at Viera High School. Mr. Thomas commented that it is very sensitive to veterans to have flags purchased and made on foreign soil flying above our institutions of government.

Jared King, 622 Sheridan Woods Drive, West Melbourne, stated that the Pledge of Allegiance is said at school every morning and that the flag is a symbol of strength and patriotism. It is absurd that we do not even buy or make these flags in our country. He asked Council for support of this resolution.

Tim Lancaster, 1626 Sun Gaze Drive, Rockledge, stated he has had the opportunity to speak in front of the Brevard County Board of County Commissioners, the Palm Bay City Council, and the Local Affairs Committee in Tallahassee. He commented that students have appreciation for the flag just like veterans do, and that the effort to get this act passed has helped him show his patriotism and learn about legislative process.

Matt Susin, 3675 Mary Lou Lane, stated that this initiative was started three years ago in a classroom when a student decided to pursue this objective. He said that the act is getting support from kids all across Florida who are showing up in Tallahassee to request the act be passed. Mr. Susin informed Council that a veteran donated a flag he received after the Korean War and requested that it be taken around to all the governmental bodies that are considering passing resolutions in support of the act.

Mayor Meehan added that education about respecting the flag is imperative. Mr. Susin said that the next stage of the act is to place educational curriculum about the flag and American history into public school curriculum.

Moved by Tasker/Thomas for approval of Resolution No. 3476. Motion carried unanimously.

21. PETITIONS, REMONSTRANCES, AND COMMUNICATIONS

Vice Mayor Moore discussed a roof issue with the Honor America Liberty Bell Museum which was leased to Honor American in 1985. It is one of the last Honor America museums which was started by Bob Hope, the Reverend Billy Graham, J.W. Marriott, and Hobart Lewis. An individual has come forward and has committed \$15,000 to put towards the repair of the roof and the building if the city matches that amount. Vice Mayor Moore said that we do not want to lose the valuable items inside the museum

Moved by Moore/Meehan to approve \$15,000 to the Honor America Liberty Bell Museum for a matching grant to put on a new roof.

B

Lewis W. Barnhart

4430 Philodendron Ct
Melbourne FL 32934
Off. 321.773.0364 fx. 321.773.0135
RC0067204 RF0333

Proposal

Number: E6427
Date: 4/2/2015

Bill To:

Ship To:

Liberty Bell Museum

PO Number

Terms

Project

1601 Oak St

Date	Description	Amount
	Remove drip edge at perimeter of radius roof	\$5,500.00
	Repair damaged concrete at various locations at eve of radius roof.	
	Remove bottom course of shingles at top of radius roof and remove drip edge. Replace drip edge and new shingles.	
	Remove and replace damaged skylight	
	Install hydrostop roof recovery system on dome roof.	
	Install hydrostop roof recovery system on south east small flat roof	
	Replace broken tile on north west tile roof	
	Clean and remove all roof debris.	

Total	\$5,500.00
Amount Paid	\$0.00
Amount Due	\$5,500.00

Lewis W. Barnhart

4430 Philodendron Ct
Melbourne FL 32934
Off. 321.773.0364 fx. 321.773.0135
RG0067204 RF0333

Invoice

Number: 2856
Date: 5/26/2015

Bill To:

Ship To:

Liberty Bell Museum

PO Number

Terms

Project

1601 Oak St

Date

Description

Amount

Remove drip edge at perimeter of radius roof

\$15,800.00

Repair damaged concrete at various locations at eve of radius roof.

Remove bottom course of shingles at top of radius roof and remove drip edge. Replace drip edge and new shingles.

Remove and replace damaged skylight

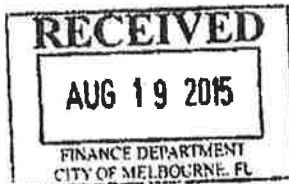
Install hydrostop roof recovery system on dome roof.

Install hydrostop roof recovery system on south east small flat roof

Replace broken tile on north west tile roof

Clean and remove all roof debris.

Remove 150sq ft of shingles over entry, install Polyglass TU Plus underlayment and install concrete roof tiles



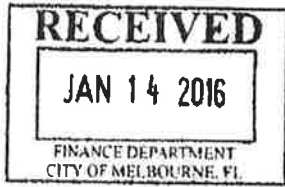
Total \$15,800.00
Amount Paid \$0.00
Amount Due \$15,800.00

*PAYABLE TO: #203179
Honor America*

*1/2 pr
2/24/15 Council Action
OK TO PAY 7,900.00*

*Michelle Z
8/20/15*

90100519 - 582210



Lewis W. Barnhart
4430 Philodendron Ct
Melbourne FL 32934
Off. 321.773.0364 fx. 321.773.0135
RC0067204 RF0333

Invoice

Number: 4570
Date: 12/9/2015

Bill To:

Ship To:

Liberty Bell Museum

PO Number

Terms

Project

1601 Oak St

Date

Description

Amount

Remove fascia at west entry. Install new fascia and paint to match existing. Install additional coat of terracotta hydrostop on radius. Install additional white hydrostop on fascia.

\$14,800.00

City Council - 2/24/16
Approved \$15,000

Invoice 2856 PD
on ck 36272 - 9/3/15
(7,900)

OK TO Pay \$7,100
ACAST invoice 4570

90100519-582210

ME

Total \$14,800.00
Amount Paid \$0.00
Amount Due \$14,800.00

BOARD OF DIRECTORS

MEETING

MINUTES

February 22, 2017

FE

Call to Order:

Betty Moore called the meeting to order at 6:04 p.m. on February 22, 2017 in Liberty Bell Memorial Museum's Library

Members Present:

Cliff Barber Rob Medina
Stephany Eley Betty Moore
George Geletko Daphne Swatek

Mike Hazlett (via phone) joined us @ 6:55 p.m.

Brenda Hoffinan Celeste Henry

Acceptance of Finances:

Finances were accepted. It was disclosed that we have \$610.00 in the checking account and \$1,618.24 in the savings account as of January 31, 2017. We have also not met payroll for two weeks.

Approval of Minutes:

The January Meeting minutes were unanimously approved as written.

Old Business:

- Recruitment - Recruitment is still ongoing.
- Office space rental of the boardroom is still on hold due to the delay of the Streetscape. Bids have been coming in too high and FDOT may split into two contracts to split financing for this project.
- House of Cards Auction items discussed and Celeste distributed solicitation letters to the Board members to copy and use to give to businesses with our 501C-3 information. We may end up with a certificate "tree" depending on how many actual cards vs. certificates we bring in.
- Patriots Dinner was discussed – we need to get "BIG MONEY" sponsors to attend. Still in the "anniversary" of the Viet Nam campaign so we'd like to honor eight Viet Nam veterans and Daphne Swatek will honor them with pins. Looking to have several raffle baskets again this year as well as big ticket raffle items.
- Gift Shop Replenishing - Brenda Hoffman brought in a mug with a logo on it made by local business "Giftique" in downtown Melbourne as a possible supplier of items for the gift shop. They personalize many different gift items so we may research this further.

New Business:

- Patriots Dinner Pricing/Menu – not discussed at this time

- Patriots Dinner Program Selection – Rob Medina to ask Knight’s Armament to be our guest speaker. We discussed options for Honorees including Elaine Larson, dragster.

Museum Report:

The museum began having monthly docent meetings. All docents were present at the first meeting except Joe Glover. The meeting went well and lasted an hour and a half.

The board decided that we needed to come up with new options to bring in money since we need to be operating on a \$50,000 budget to keep the museum open. We discussed the need for a business plan, multiple fundraisers - some that may possibly get the various local veterans organizations involved, getting grant writers - especially state grants that are available to organizations that promote children’s education, and larger “big money” sponsors. Mike Hazlett mentioned that he has connections with veterans in Washington that may be helpful to us.

President’s Report:

The roofing issue was discussed at length regarding the payments made to the roofer and the lack of a roofing contract. It has come to the Board’s attention that the check for the money that the roofer was going to give back to Honor America was actually given to John Tice in the name of Honor America, who handed it back and requested that the check be re-written in the name of Brevard Hall of Fame. The check was written in the amount of \$7,000.00. We are now in the process of trying to obtain records of this transaction (i.e. copy of the cancelled check). A motion was made by Stephany Eley (and placed on hold) to empower George Geletko, Celeste Henry and Franck Kaiser to present any information they uncovered to the State Attorney for prosecution. Mike Hazlett seconded the motion. Discussion followed that a special meeting of the Board be called when they had the information before going forward with this as we need more solid documentation. It was discussed that we might get a subpoena from the Viera D.A. to obtain some of this information if necessary. Mike Hazlett “took back his second” for the time being, and said he expected this issue to be resolved in a month. In view of this new legal situation, Betty Moore made it clear that she may need to step down as President so as not to put her seat on the city council in jeopardy. Betty will seek further legal advice. Rob Medina requested that we get a forensic audit for our protection.

Adjournment:

Betty Moore adjourned the meeting at 8.14 p.m.
Minutes Submitted by: Brenda Hoffman

Next meeting March 22, 2017




F

County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

TO : Commissioner John Tobia, District 3 Commissioner

FROM : Scott L. Knox, County Attorney 

RE : Town of Palm Shores CRA payments to Mayor as Executive Director

DATE : June 15, 2017

Commissioner, you have asked several questions relating the Town of Palm Shores CRA payment of a salary to the Mayor acting in the capacity of the CRA executive director. Those questions are set forth and analyzed below.

Background Facts:

The Mayor of the Town of Palm Shores has served as a commissioner on the Town of Palm Shores CRA Commission for several years. Over the past several years, the Mayor was also executive director of the CRA receiving annual salaries from the CRA ranging from \$14,988 to \$19,314. That salary arrangement seems to have been in place from 2012 to 2017.¹ Those salaries were paid from the CRA funds supplied exclusively by the tax increment appropriated each year to the CRA by the County.² On June 9, 2017, Mayor McCormack tendered her resignation as the Palm Shores CRA executive director.

In 2015 and 2016 county tax increment funds were also apparently used to pay portions of the compensation for two city public works employees, amounting to a total of approximately \$13,000.

Question 1: Can the Town Mayor lawfully serve as both Mayor and as a commissioner of the CRA?

Answer 1: Yes, the entire city council can, and does, sit as the town's CRA governing body.

¹ See Exhibit A, attached

² According to County Budget Department records, in 2017, county tax increment revenues paid to the CRA amounted to \$113,560. There do not appear to be any revenues provided by the Town to the CRA.

Commissioner John Tobia, District 3 Commissioner

RE: Town of Palm Shores CRA payments to Mayor as Executive Director

June 15, 2017

PAGE 2

Question 2: Can the Mayor be paid a salary as executive director of the CRA?

Answer 2: As mentioned, the Mayor is currently seated as Mayor/council member and a CRA Commissioner. As such, she cannot be paid a salary for service as a CRA commissioner. A salary paid to an executive director is allowed, however, since the Mayor has resigned as the executive director,³ the issue of the propriety of paying a portion of her salary from CRA funds is moot going forward.

Question 3: Are there any remedies available to the County in this situation, including remedies that would allow the county to recover the funds spent on the town's CRA Executive Director salary?

Answer 3: The County has several possible remedies under these circumstances, including an agreed upon reimbursement by way of an interlocal agreement between the County, the CRA and the Town of Palm Shores; a declaratory judgment and ancillary action for the recovery of funds paid; the County's revocation of delegated CRA powers; and/or the Town's voluntary dissolution of the CRA.

Analysis

I. Mayor's Service as Both Mayor and Commissioner

Until recently, the mayor of the Town also served as the commissioner of the CRA. Generally, dual office-holding is prohibited. However, this arrangement is permitted pursuant to Section 163.357, Florida Statutes, under which a governing body can declare itself to be the agency by resolution.

Section 163.357(1)(a), Florida Statutes, provides that "the governing body may, . . . by adoption of a resolution, declare itself to be an agency." By doing so, "the members of the governing body shall be the members of the agency but constitute the head of a legal entity, separate, distinct, and independent from the governing body of the county or municipality." Sec. 163.357(1)(b), Florida Statutes. This section specifically allows members of the town's governing body to designate themselves as commissioners on the agency's governing body, which the statute refers to as the board of commissioners.⁴

Conversations with the Town attorney indicate that the Town has designated its Council as the CRA governing body. Since the mayor is a member of the governing body, by operation of the statute, she is also a member of the CRA, which is a public body corporate and politic that

³ See Exhibit B, attached.

⁴ See section 163.356(2), Florida Statutes

is statutorily deemed a separate legal entity from the Town.⁵ Therefore, her service in both capacities does not run afoul of the general constitutional prohibition on dual office-holding.

a. Salary as commissioner of the CRA

Section 163.356(3)(a) provides that “a commissioner shall receive no compensation for services, but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of duties.” Therefore, it is arguable that no commissioner seated on a CRA can collect a salary.

Based on information provided by the Town (see attached Exhibit A), the mayor has been paid a total of \$84,529 plus \$5,233 on payroll taxes from 2012 to 2016 for services rendered as executive director of the town CRA. However, since the mayor apparently sat as a town CRA commissioner in those years and was also executive director of the CRA, she should not have been paid as a sitting commissioner since the statute prohibits a commissioner from receiving compensation “for services.” Though the statute does not define “services,” neither does the statute exclude services provided to the CRA as executive director. Therefore, it is the opinion of this office that the statute could be construed to encompass and thereby prohibit any payment for executive director services provided to the CRA by the Mayor/commissioner.

However, there is a counter-argument. The CRA statute specifically authorizes a CRA board to hire an executive director and pay that person compensation determined by the CRA board.⁶

II. Other CRA Expenses

A response from the Town of Palm Shores indicates that the CRA has paid two town public works employees 2015-2016 wages of \$9,137 and \$3,469 (10/11/2015-11/30/2015). There is no prohibition on town employees providing services to the CRA, however, an interlocal agreement between the town and the CRA substantiating those services would be the appropriate mechanism for determining or ratifying the nature and cost of such services. To the knowledge of this office, there is currently no such agreement in place.

III. County’s Remedies

The question has been raised as to whether the County can recover the money that was paid to the Mayor. According to records kept in the County budget department, the town CRA is 100% funded with the County tax increment,⁷ which means any money spent by the CRA was

⁵ Id., subsection (1); see also section 163.357(1)(b), Florida Statutes

⁶ 163.356(3)(c), Florida Statutes states:

(c) The governing body of the county or municipality shall designate a chair and vice chair from among the commissioners. An agency may employ an executive director, technical experts, and such other agents and employees, permanent and temporary, as it requires, and determine their qualifications, duties, and compensation.

⁷ The County Budget Office reports the current 2017 tax increment at \$113,560.

Commissioner John Tobia, District 3 Commissioner

RE: Town of Palm Shores CRA payments to Mayor as Executive Director

June 15, 2017

PAGE 4

derived from the County increment revenues. To recover all or a portion of that money, there are four options or combinations of options available:

(1) enter into an interlocal agreement that sets up a plan to reduce future funding to the CRA and allows the County to retain all or a portion of the county tax increment paid to the CRA until the total amount paid to the Mayor/commissioner as executive director is recouped by the County;

(2) subject to compliance with the mandatory dispute resolution procedures imposed by chapter 164, Florida Statutes,⁸ on the County, the town CRA and the Town of Palm Shores—which would have been the beneficiary of the tax increment paid to the Mayor—pursue an action for declaratory relief seek a court determination as to the propriety of the expenditure of CRA revenues for the Mayor's services as executive director and an associated claim for monetary compensation to recoup the tax increment funds paid to the Mayor/commissioner;

(3) revoke the CRA powers delegated to the town based on failure to perform (non-performance) in accordance with applicable laws or in the financial interests of the County and cut off all future annual County tax increment paid to the town CRA; or

(4) the town could decide to dissolve its CRA which would result in the return of all future County tax increment revenues to the general fund.

⁸ Ch.164 requires governmental entities to follow specific procedures to resolve disputes before engaging in litigation. A "governmental entity" is defined as local and regional governmental entities. Pursuant to Section 164.1031(1), local governmental entities include "municipalities, counties, school boards, special districts, and other local entities within the jurisdiction of one county created by general or special law or local ordinance." A CRA is a public body corporate and politic created pursuant to a county resolution and the board of commissioners for the CRA is established by ordinance. Therefore, a CRA is a local entity within the jurisdiction of one county that is created by local ordinance. As such, the Ch.164 conflict resolution requirements may apply to disputes the County may have with the CRA or the Town.

The scope of Ch. 164 defines the situations in which conflict resolution applies and is broadly defined in Section 164.1051, Florida Statutes. That section provides that "[i]t is not the intent of this act to limit the conflicts that may be considered under this act, except that any administrative proceeding pursuant to chapter 120 shall not be subject to this act."

TOWN OF PALM SHORES



"The Little Town That Cares"

May 2, 2017

Commissioner John Tobia
District 3
2725 Judge Fran Jamieson Way
Suite 201
Viera, Florida 32940

Dear Commissioner Tobia:

Enclosed please find the requested information on the activities of our Community Redevelopment Agency.

Sincerely,

Mayor Carol M. McCormack
Town of Palm Shores

Cc: Chairman Curt Smith w/attachment
Vice Chair Rita Pritchett w/attachment
Commissioner Jim Barfield w/attachment
Commissioner Christine Isnardi w/attachment

5030 Paul Hurtt Lane • Palm Shores, FL 32940
Phone: 321-242-4555 • Fax: 321-254-7883
Visit us at: www.townofpalmshores.org

RECEIVED BY THE
JUN 5 2017
DM 94352
COUNTY ATTORNEY'S OFFICE

ASST. COUNTY ATTORNEY (G. P. ...)

1. Salaries and Titles of Those Paid from the CRA - (No travel expenses paid by CRA)

Carol M. McCormack, CRA Director
2016 Salary \$17,629

Timothy Carlisle, Public Works
2016 Wages \$3,469 (10/1/2015 - 11/30/2015)

William G. Whitmore, Public Works
2016 Wages \$9,137 (12/1/2015 - 9/30/2016)

CRA Director
- IS

2. Grants Made to Private Businesses (only grants made were in FYE 2016. All grants paid were matching grants.)

Mossy Oak Fence Brevard
4640 N. Highway US 1
Palm Shores, FL 32935
Amount \$2,500

BRPH
5700 North Harbor City Blvd.
Palm Shores, FL 32940
Amount \$1,995

Coquina Ridge Animal Clinic
4775 N. US Highway 1
Palm Shores, FL 32935
Amount \$2,172.50

Florida Wildlife Hospital
4560 North US Highway 1
Palm Shores, FL 32935
Amount \$2,344

South Pineda Storage
5590 Highway US 1
Palm Shores, FL 32940
Amount \$5,000

3. No debts incurred by CRA

	2012	2013	2014	2015	2016
Mayor/Town Manager	15,750	19,314	14,988	16,848	17,629
Payroll Taxes	1,435	1,271	1,146	1,293	88
Engineering	3,525	450	938	0	0
Legal	2,163	4,738	763	350	725
Planner	7,624	1,647	2,642	143	950
Memberships	295	175	175	175	175

TOWN OF PALM SHORES



"The Little Town That Cares"

MEMORANDUM

To: Town Council

From: Mayor Carol M. McCormack

Re: Community Redevelopment Director

Date: June 9, 2017

Please accept this as my resignation as the Community Redevelopment Director effective immediately.

5030 Paul Hurtt Lane • Palm Shores, FL 32940
Phone: 321-242-4555 • Fax: 321-254-7883
Visit us at: www.townofpalmshores.org


[Handwritten signature]



BOARD OF COUNTY COMMISSIONERS

County Attorney's Office
2725 Judge Fran Jamieson Way
Building C, Room 308
Viera, Florida 32940

TO : Hon. Commissioner John Tobia, District 3

FROM : Scott Knox, County Attorney 

RE : Use of CRA funds for "Four Points" approach "promotion" of CRAs

DATE : September 20, 2017

The City of Melbourne response to your inquiries about CRA funds used for parades and block parties raised some interesting legal issues warranting more detailed factual research and legal analysis. That said, you have asked the following additional questions relating to the Downtown Melbourne CRA and Old Eau Gallie CRA.

1. Given your previous opinion that diverting CRA funds to pay for festivals is not consistent with Florida Statutes, are the grants described below lawful?

Short Answer: No.

2. Specifically, does the fact that the grant is awarded to a 501(c)(3) nonprofit administered by the Florida Division of Natural Resources change your analysis?

Short Answer: No.

Analysis:

As will be explained in more detail under the subheadings that follow, the critical factor in determining the validity of a CRA trust expenditure is whether an expenditure is made for an *undertaking described in the community redevelopment plan*, as required by section 163.387(6), Florida Statutes. That question, in turn, is determined by whether or not redevelopment plan conforms to the statutory requirements identified in section 163.362, Florida Statutes.

In the context of the questions you have posed regarding the propriety of expending CRA trust funds on activities such as festivals, parades, block parties or other special events, the language in section 163.362(5)(c), Florida Statutes, must also be considered. That provision states "every redevelopment plan shall [c]ontain adequate *safeguards* that the *work of redevelopment* will be carried out *pursuant to the plan*."¹ The work of redevelopment...pursuant to the [redevelopment] plan" will necessarily involve the expenditure of CRA redevelopment trust funds. Therefore, the plan must contain

¹ Section 163.362(5)(c), Florida Statutes

RE: Use of CRA funds for "Four Points" approach "promotion" of CRAs
September 20, 2017
Page 2

"safeguards" assuring that CRA trust funds are spent on the work of "redevelopment" as that term is defined in section 160.340(9),² Florida Statutes. Since section 163.387, Florida Statutes restricts the expenditure of funds to undertakings described in the community redevelopment plan, unless otherwise authorized by the Legislature,³ such the safeguards required by section 163.362(5)(c), Florida Statutes should restrict expenditures to the following "redevelopment" purposes identified in the definition of that terms set forth in the community redevelopment statute:

- (a) prevention and elimination of blight;
- (b) reduction and prevention of crime;
- (c) provision of affordable housing;
- (d) slum clearance;
- (e) rehabilitation and revitalization of economically distressed and deteriorating coastal resort and tourist areas; and
- (f) rehabilitation or conservation of community redevelopment areas

That section 163.387 and 163.362(5)(c), Florida Statutes, restrict the expenditure of CRA funds to the foregoing defined "redevelopment" purposes is supported by companion limitations on CRA trust fund expenditures found in section 163.370(3)(c), Florida Statutes which states that CRA tax increment revenues cannot be used to pay "[g]eneral government operating expenses unrelated to the planning and carrying out of a community redevelopment plan."

2) Entertainment activities such as those you have raised in your current and prior questions on the propriety of CRA expenses are not, in the opinion of this office, contemplated in the "the work of redevelopment" or the activities described in the statutory definition of "redevelopment"

Uses of CRA tax increment funds for CRA undertakings described in the CRA plan

The uses of revenues deposited in a "redevelopment" trust fund are identified in section 163.387(6)(a), Florida Statutes, which provides as follows:

Fla. Stat. Ann. § 163.387 Redevelopment Trust Fund

² S.163.340, Florida Statutes:

"(9) Community redevelopment" or "redevelopment" means undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight, or for the reduction or prevention of crime, or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed, or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan.

³ See FN 6, below

(6) Moneys in the redevelopment trust fund may be expended from time to time *for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:*

- (a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.
- (b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- (c) The acquisition of real property in the redevelopment area.
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- (f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.
- (g) The development of affordable housing within the community redevelopment area.
- (h) The development of community policing innovations.

Since the expenditure of CRA trust fund revenues is statutorily tied to "undertakings of a community redevelopment agency *as described in the community redevelopment plan*" it is important to know what the Legislature has specifically prescribed as the elements of a community development plan.

The core substantive requirements for a redevelopment plan are set forth in section 163.362, Florida Statutes, as follows:

163.362. Contents of community redevelopment plan

Every community redevelopment plan shall:

- (1) Contain a legal description of the boundaries of the community redevelopment area and the reasons for establishing such boundaries shown in the plan.
- (2) Show by diagram and in general terms:
 - (a) The approximate amount of open space to be provided and the street layout.
 - (b) Limitations on the type, size, height, number, and proposed use of buildings.
 - (c) The approximate number of dwelling units.
 - (d) Such property as is intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature.
- (3) If the redevelopment area contains low or moderate income housing, contain a neighborhood impact element which describes in detail the impact of the redevelopment upon the residents of the redevelopment area and the surrounding areas in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population, and other matters affecting the physical and social quality of the neighborhood.
- (4) Identify specifically any publicly funded capital projects to be undertaken within the community redevelopment area.

- (5) *Contain adequate safeguards that the work of redevelopment will be carried out pursuant to the plan.*
- (6) Provide for the retention of controls and the establishment of any restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as the governing body deems necessary to effectuate the purposes of this part.
- (7) Provide assurances that there will be replacement housing for the relocation of persons temporarily or permanently displaced from housing facilities within the community redevelopment area.
- (8) Provide an element of residential use in the redevelopment area if such use exists in the area prior to the adoption of the plan or if the plan is intended to remedy a shortage of housing affordable to residents of low or moderate income, including the elderly, or if the plan is not intended to remedy such shortage, the reasons therefor.
- (9) Contain a detailed statement of the projected costs of the redevelopment, including the amount to be expended on publicly funded capital projects in the community redevelopment area and any indebtedness of the community redevelopment agency, the county, or the municipality proposed to be incurred for such redevelopment if such indebtedness is to be repaid with increment revenues.⁴

In determining the required elements of a redevelopment plan, the Legislature used the mandatory "shall" language, not the permissive "shall include"—implying that plan elements other than those identified by the Legislature could also be adopted. Nor did the language give cities or counties the statutory discretion to adopt other, optional elements of a redevelopment plan, as was done in Chapter 163, Part II, and Florida Statutes. Instead, the Legislature chose to adopt a specific list of elements that are to comprise the redevelopment plan.

Under section 163.362, the contents of the plan can be fairly summarized as relating to physical elements (boundaries of the CRA; amount, size, and designate use of real property; capital

⁴ The statute also contains the following additional requirements:

(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended pursuant to s. 163.361(1). However, for any agency created after July 1, 2002, the time certain for completing all redevelopment financed by increment revenues must occur within 40 years after the fiscal year in which the plan is approved or adopted.

(11) Subsections (1), (3), (4), and (8), as amended by s. 10, chapter 84-356, Laws of Florida, and subsections (9) and (10) do not apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body has approved and adopted a community redevelopment plan pursuant to s. 163.360 before chapter 84-356 became a law; nor do they apply to any governing body of a county or municipality or to a community redevelopment agency if such governing body or agency has adopted an ordinance or resolution authorizing the issuance of any bonds, notes, or other forms of indebtedness to which is pledged increment revenues pursuant only to a community redevelopment plan as approved and adopted before chapter 84-356 became a law.

RE: Use of CRA funds for "Four Points" approach "promotion" of CRAs
September 20, 2017
Page 5

improvements; real estate related restrictions, residential housing); debt repayment and funding mechanisms for implementing the plan; and "safeguards that *the work of redevelopment* will be carried out pursuant to the plan" for redevelopment. A notable omission from any statutory list of "redevelopment" activities or "the work of redevelopment" are "special events," "festivals," "parades," or "block parties"—in sharp contrast to "policing innovations," which was explicitly added as a related activity for which CRA trust funds could be expended in 1998.⁵

The Attorney General, citing to various provisions in the community redevelopment statute, has also described community redevelopment primarily in terms of physical undertakings and activities in Fla. Op. Att'y Gen. 203 (1982)

"Section 163.370(1), F.S., provides that counties and municipalities shall have the powers necessary to carry out the purposes and provisions of the act, including the power to 'undertake and carry out community redevelopment projects and related activities within its area of operation, such projects to include: . . . 3. Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out in the community redevelopment area the community redevelopment objectives . . . in accordance with the community redevelopment plan.' (e.s.) Section 163.370(1)(a) 3., F.S. See also, §163.362(2)(d), F.S., which requires that every community redevelopment plan shall show the property 'intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature.' (e.e.) It is my view therefore that 'public improvements of any nature' including utilities, sidewalks and other improvements constitute 'undertakings and activities' by a community redevelopment agency within the definition of a community redevelopment project contained in § 163.340(9), F.S.

Neither the foregoing plan elements specifically listed in s.163.362, the statutory definition of "redevelopment" found in s. 163.340(9), Florida Statutes, nor any other provision in the community redevelopment statutes explicitly, or even implicitly, suggest that entertainment activities, special events, parades, festivals or block parties are encompassed within redevelopment or "*the work of redevelopment*" that "will be carried out pursuant to the plan." Had the Legislature intended to include such activities in a redevelopment plan or authorize expenditures for such activities, the words "entertainment activities," "special events," "promotions," "festivals," "parades" or similar words could have been added to any provision in the statute authorizing a specific plan element, expenditure, or related activity—as the Legislature did when adding "policing innovations" as a redevelopment "related activity" eligible for CRA tax increment funding.

The Four Points Approach

The City suggests that expenditures for special events entertainment activities are authorized under the "Four Point Approach" published as part of the Active Florida Main Street programs sponsored by the Florida Department of State, Division of Historical Preservation⁶ because the Downtown Melbourne CRA

⁵ Chapter 98-314, Laws of Florida adding "policing innovations" to sections 163.340(12)(d);163.358(5); 163.360(3); 163.370(2)(o); 163.387(6)(h), Florida Statutes

⁶ <http://dos.myflorida.com/historical/preservation/main-street-program/the-four-point-approach/>

is a certified designated "Florida Main Street Community." The "Four Point Approach" is described on the Department website as follows:

The Four Point Approach



The Refreshed Four Point Approach

The Main Street Approach is most effective in places where community residents have a strong emotional, social, and civic connection and are motivated to get involved and make a difference. This approach works where existing assets—such as older and historic buildings and local independent businesses—can be leveraged. It encourages communities to take steps to enact long term change, while also implementing short term, inexpensive and placid-based activities that attract people to the commercial core and create a sense of enthusiasm and momentum about their community. Both small-city downtowns and urban neighborhoods throughout the nation are renewing their community centers with Main Street methodology.



The refreshed Main Street Approach (see an overview of the refresh process [here](#)) is a common-sense, strategy driven framework that guides community based revitalization efforts. Building off three-decades of success, this updated model harnesses the social, economic, physical, and cultural assets that set a place apart, and ultimately leads to tangible outcomes that benefit the entire community.

[Certified Local Governments](#)
[Compliance and Review](#)
[Florida Folklife Program](#)
[Great Floridians Program](#)
[Florida Heritage Trails](#)
[Historical Markers](#)

[Florida Main Street](#)

- [Florida Main Street Communities](#)
- [Calendar](#)
- [The Refreshed Approach](#)
- [Meetings and Conferences](#)
- [Program of the Month](#)
- [Reinvestment Statistics](#)
- [Florida Main Street Application](#)
- [Program Opportunities](#)
- [Job Listings](#)

[Master Site File](#)
[National Register](#)



It should be noted that the second point of the Four Points approach is "PROMOTION" where the articulated goal is as follows: "The ultimate goal is to position the downtown and commercial districts as the center of the community while creating a positive image that showcases a community's unique character."

However, it should also be noted that the Florida Main Street Communities Program is sponsored under the auspices of the State of Florida, Secretary of State, Division of Historical Resources. The duties and responsibilities of that Division of state government set forth under s. 267.031(5), Florida Statutes, include the following:

- (g) Cooperate with local governments and organizations and individuals in the development of local historic preservation programs, including the Main Street Program of the National Trust for Historic Preservation, or any similar programs that may be developed by the division.
- (i) Take such other actions necessary or appropriate to locate, acquire, protect, preserve, operate, interpret, and promote the location, acquisition, protection, preservation, operation, and interpretation of historic resources to foster an appreciation of Florida history and culture.

Prior to the acquisition, preservation, interpretation, or operation of a historic property by a state agency, the division shall be provided a reasonable opportunity to review and comment on the proposed undertaking and shall determine that there exists historical authenticity and a feasible means of providing for the preservation, interpretation, and operation of such property.

Clearly, subsection (g), above, would authorize the use of state grant funds processed by or through the Division of Historical Resources to "promote the location...of historic resources to foster an appreciation of Florida history and culture." And equally clear is the Division's apparent characterization of "Florida Main Street Communities" as historical resources. It follows that expenditure of Division approved grant funds for "promotion" of a special event or entertainment activities in Melbourne CRAs would be appropriate.

However, none of the duties, responsibilities or rule-making authority granted to the Division of Historical Resources by the Legislature extends to or encompasses Community Redevelopment under Part III of chapter 163, Florida Statutes. Indeed, the operational scope of the community redevelopment statutes is confined to local government and those entities are not authorized to use CRA tax increment trust funds for "promotion" through entertainment activities. "Promotion" of a redeveloped downtown area is not an element included in the statutorily limited, legislatively established elements of a community redevelopment plan, nor is promotion mentioned or authorized as a strategy or recognized redevelopment undertaking or related activity in any provision of Part III of chapter 163, Florida Statutes, interpreting case law, or in any attorney general opinions relating to CRAs.

It is interesting to note that the Downtown Melbourne CRA plan does not contain any statement identifying "promotion" of the downtown area as a goal, policy or strategy of the community redevelopment plan. Moreover, the Downtown Melbourne CRA plan does not reference, incorporate, or adopt either the Florida Main Street Communities program or the "Four Points Approach" as a means of identifying a policy or strategy of "promotion," though the Downtown CRA plan does mention "promotion" and "special events" in various parts of the plan,⁷ perhaps conflating the Community

⁷ Under the heading "Revitalization Strategy," the Downtown CRA redevelopment plan does mention *special events* as a means of increasing visitation to the Downtown area:

Increase Visitation to Downtown/Environs

The City of Melbourne and environs currently have significant resources to attract a large number of transients. These resources include:

- Ocean, Indian River, and the areas' harbors/marinas,
- Ecological resources associated with Indian River,
- Historical and cultural resources,
- Arts and crafts,
- *Special events*, and
- Performing arts.

The Downtown CRA redevelopment plan also mentions "promotion" or the Four Points goal of promoting a "positive image" on the following pages:

Arts and Crafts The environs of the Downtown have become a hub of artistic activity. The area is now home to a large number of artisans. Unfortunately, most work out of their homes which are not located in Downtown. The

Redevelopment statutory elements of a community redevelopment plan and the Four Points approach concept embraced by the Florida Main Street Communities program.

That same conflation is evident in the Olde Eau Gallie Riverfront CRA redevelopment plan which contains a specific strategy calling for the use of grant and loan funds "to promote and market the area:"

**Olde Eau Gallie Riverfront CRA Redevelopment Plan
B. Management Plan**

Implementation of the Plan will require both human and financial resources. Until the Tax Increment Fund accumulates resources, the City should assume its manpower needs, internal funding sources, and other resources. Initial efforts may include grants and loans, *in order to promote and market the area*, reviewing development plans, leveraging investments, assisting small businesses, providing for special events, providing day to day management and review for the implementation of this important program. Only with a dedicated staff and revenue stream can the City make this work to its highest capability. Left to "plug-along" on its own, the area will languish further. P.67

However, promotion is not one of the limited statutory elements to be included in a community redevelopment plan or a redevelopment "related activity." Consequently, section 163.387, Florida Statutes does not authorize the expenditure or grant of CRA trust funds for purposes of "promotion"—although the expenditure of state grant historical preservation grant funds; city grants of general fund tax revenue; or city revenues from other sources, such as tourist development taxes, may be authorized for such purposes.⁸

The City may have assumed that the broad statutory language in sections 163.358 and 163.370(2)—"[e]ach county and municipality has all powers necessary or convenient to carry

area, however, does have an active Arts Council (Brevard County Arts Council) housed in Downtown Melbourne which promotes local artists and is active in promoting Downtown events, the most notable being the Melbourne Arts Festival, one of the largest in the State of Florida. P.22

(Ch. 3: Revitalization Program, Redevelopment Concept)

Private Contributions- Voluntary contributions by private companies, foundations and individuals are a potential source of income to the Redevelopment Agency. Although such contributions may account for only a small portion of redevelopment costs, they do provide opportunities for community participation with positive promotional benefits. P.40

"[I]mage management is critical to change public perceptions of Downtown. Local print and electronic media play a central role in creating and reinforcing Downtown's image as "the place to be" Being perceived as the regional center for culture and arts and entertainment helps forge a positive, popular image. P.9

⁸ The Attorney General has opined that "promotion," as it relates to the statute authorizing the use of tourist development tax for "promotion of tourism" *does include* special events such a free outdoor concert open to the public, the purpose of which to provide entertainment for community residents and visitors in order to spotlight the community as a desirable place to live or visit. [Florida Op.Atty.Gen. 92-16](#) (March 6, 1992).

RE: Use of CRA funds for "Four Points" approach "promotion" of CRAs
September 20, 2017
Page 9

out and effectuate the purposes and provisions of this part"—gives cities the leeway to expend funds for special events such as those you have inquired about. However, that provision limits "necessary or convenient" to carrying out the "purposes and provisions" of community redevelopment statutes containing three provisions restricting the expenditure of CRA trust funds to "redevelopment" and "related activities," as defined in the statute—which includes policing innovations, but not special events, parades, festivals or block parties.

The fact that CRA trust funds are deemed to be a grant given to a not for profit entity sponsoring a special event does not change the foregoing analysis.



Clerk of the Circuit Court, Brevard County, Florida

Administration, P.O. Box 999, Titusville, Florida 32781-0999
Telephone: (321) 637-5413 · www.brevardclerk.us

Scott Ellis, Clerk

TO: The Honorable Scott Ellis, Clerk of the Circuit Court

FROM: Rebecca E. Lober, Esq., Staff Counsel to the Clerk
Tyler Winik, Deputy Clerk, Legal Affairs & Special Projects

RE: Opinion 17-02: Town of Palm Shores Community Redevelopment Agency

DATE: June 19, 2017

QUESTION:

You have substantially asked whether Carol McCormack, the mayor of the Town of Palm Shores ("Palm Shores"), who also serves as a member of the Town of Palm Shores Community Redevelopment Agency (the "CRA"), may be compensated by the CRA for acting, in addition to her role as commissioner, the CRA's executive director.

ANSWER:

Pursuant to section, 163.356(3)(a), Florida Statutes, "[a] commissioner shall receive no compensation for services, but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of duties." There is no allowance for a commissioner to receive any other type of compensation from the CRA. As a result, it is the opinion of this office that a commissioner of a CRA may not draw compensation except for the explicit reasons listed in the governing statutes.

EXPANDED ANSWER:

In June 2004, Palm Shores passed an ordinance with the required findings that a CRA was necessary and created the same. *See* Ordinance 2004-06, Town of Palm Shores. *See* Exhibit "A." In May 2004, Palm Shores adopted Resolution 2004-05, declaring that the town council of Palm Shores "shall serve as the Board Of [sic] Commissioners of the Palm Shores community Redevelopment Agency." *See* Exhibit "B"; *see also* § 163.357, Fla. Stat. ("As an alternative to the appointment of not fewer than five or more than seven members of the agency, the governing body may, at the time of the adoption of a resolution...declare itself to be an agency...").

The Mayor

In her official role, Mayor Carol McCormack (the "Mayor") serves as a member of the town council. *See* § 2.08, Code of Ordinances, Town of Palm Shores, Florida (The mayor "shall

be a voting member of the council, the presiding officer of the council, the chief executive officer and the titular and administrative head of the Town.”); *see also* Exhibit “C.” In lieu of a town manager, the Mayor also serves as the administrator of the town’s government, different than most, if not all, municipalities in the county. *See* § 1.05, Code of Ordinances, Town of Palm Shores, Florida (“The form of government provided by this charter shall be known as the “strong mayor government”...The Mayor shall execute the laws and administer the government of the Town.”); *see also* Exhibit “D.” As a member of the town council, the Mayor is automatically a CRA commissioner. *See* Exhibit “B,” *supra*.

On information and belief, the Mayor, as a commissioner, has drawn compensation from the CRA while also acting as its executive director. *See* § 163.356(3)(c), Fla. Stat. (“An agency may employ an executive director...”). According to a letter dated June 12, 2017, Ms. Jane Antonsen indicates that in 2010 or 2011, the Mayor, Ms. Antonsen, and Mr. Doug Robertson met to discuss that approximately 30 to 35% of the Mayor’s salary was to be apportioned “to the CRA since the majority of her time was devoted to handling CRA issues. Over time, this percentage has decreased.”¹ June 12, 2017, Letter from J. Antonsen. *See* Exhibit “E.”

Statutory Construction

There appears to be no case law from Florida’s appellate courts on the legality of a commissioner deriving compensation from a CRA. As such, a trial court would likely consider this a case of first impression, and apply principles of statutory construction to the question presented above. “The primary rule of statutory construction is “to give effect to legislative intent, which is the polestar that guides the court in statutory construction.”” *Raymond James Financial Services, Inc. v. Phillips*, 126 So. 3d 186, 190 (Fla. 2013) (*citing Gomez v. Vill. of Pinecrest*, 41 So. 3d 180, 185 (Fla. 2010)). “In answering a statutory interpretation question, [the] Court must begin with the actual language used in the statute because legislative intent is determined first and foremost from the statute’s text.” *Phillips*, 126 So. 3d at 190 (*citing Heart of Adoptions, Inc. v. J.A.*, 963 So. 2d 189, 198 (Fla. 2007) (*quoting Borden v. E.-European Ins. Co.*, 921 So. 2d 587, 595 (Fla. 2006))), internal quotations omitted.

Section 163.356(3)(a), Florida Statutes, says that “[a] commissioner shall receive no compensation for services, but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of duties.” A plain reading of the statute indicates that a commissioner is barred from receiving any compensation *except* that which is listed. *See id.* “Under the principle of statutory construction, *expressio unius est exclusio alterius*, the mention of one thing implies the exclusion of another.” *Moonlit Waters Apartments, Inc. v. Cauley*, 666 So. 2d 898, 900 (Fla. 1996) (*citing Bergh v. Stephens*, 175 So. 2d 787 (Fla. 1st DCA 1965)). By prohibiting all but the specified types of compensation to CRA commissioners (i.e. necessary expenses, such as travel expenses), the Legislature has forbade any other type of compensation.

In the question presented, the Mayor has been compensated by the CRA since 2012 for

¹ Ms. Antonsen’s letter indicates, but this office has yet to verify, that the monies paid to the Mayor from the CRA were simply apportioned from the CRA based on the percentage of the Mayor’s time involved with executive director duties.

her provision of services as CRA executive director while also serving as CRA commissioner. We admit the circumstances surrounding the Mayor are unique: (1) she is mayor of Palm Shores; (2) she is a member of the CRA commission by virtue of her role as mayor; and (3) she has served as the CRA's executive director.

Nevertheless, the Legislature has expressly prohibited compensation of CRA commissioners beyond the narrow exceptions listed in section 163.356(3)(a), Florida Statutes, and has *expressly prohibited compensation for services*. This office does not reasonably see how the executive director services provided by the Mayor could be classified as "necessary expenses" compensable under the statute, and instead finds them more analogous to "services" which are expressly prohibited from being compensated.

Conclusion

It is the opinion of this office that Florida law does not allow for the Mayor—as a CRA commissioner—to apportion any part of her salary to be paid from the CRA under the provisions of section 163.356(3)(a), Florida Statutes, or to derive any other source of compensation from the CRA beyond that which is statutorily prescribed.

To that end, this office declines to recommend a curative plan of action for the CRA and Palm Shores regarding past apportionment of the Mayor's salary, noting the Mayor tendered her resignation as executive director of the CRA on June 9, 2017. *See* Exhibit "F." Whether additional curative action is necessary is in the province of capable counsel the CRA is permitted to employ. *See* § 163.356(3)(c), Fla. Stat. ("For such legal service as it requires, an agency may employ or retain its own counsel and legal staff.").

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 8

#Names: 2

Trust: 3.50

Rec: 49.00

Serv: 12.00

Dist: 0.00

Excise: 0.00

Mtg: 0.00

Int Tax: 0.00

ORDINANCE NO. 2004-06



CFN:2004199168

06-24-2004 01:13 pm

OR Book/Page: 5323 / 7793

AN ORDINANCE OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 163.360, FLORIDA STATUTES, APPROVING A COMMUNITY REDEVELOPMENT PLAN FOR THE TOWN OF PALM SHORES COMMUNITY REDEVELOPMENT AREA, AS SET FORTH IN THE TOWN OF PALM SHORES COMMUNITY REDEVELOPMENT AREA PLAN; DESIGNATING THE PLAN AS THE OFFICIAL COMMUNITY REDEVELOPMENT PLAN FOR REDEVELOPMENT AND IMPROVEMENT OF THE TOWN OF PALM SHORES COMMUNITY REDEVELOPMENT AREA; PROVIDING FINDINGS OF THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA; PROVIDING FOR TOWN COUNCIL ADOPTION OF THE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of The Town of Palm Shores, Brevard County, Florida has adopted Resolution No. 2004-04 finding the existence of certain slum and blighted areas within the boundary of the Palm Shores Redevelopment Area and determining that the rehabilitation, conservation or redevelopment, or a combination thereof, of the Area by the Town of Palm Shores Community Redevelopment Agency is necessary in the best interests of the public health, safety, morals, or welfare of the residents and citizens of the Town of Palm Shores, Brevard County; and

WHEREAS, the Town has confirmed the findings of slum and blight; and

WHEREAS, the Town Council of the Town of Palm Shores, Brevard County, Florida, has adopted Resolution No. 2004-05 creating a Community Redevelopment Agency to carry out and effectuate the purposes of community redevelopment within the boundaries of the Area; and

WHEREAS, the Town Council of the Town of Palm Shores, Brevard County, Florida, has determined that the rehabilitation, conservation or redevelopment, or a combination thereof, of the Area by the Town of Palm Shores Community Redevelopment Agency is necessary and in the best interests of the public health, safety,

morals, or welfare of the residents and citizens of The Town of Palm Shores, Brevard County; and

WHEREAS, implementation of the Redevelopment Plan will result in redevelopment and related infrastructure improvements to support the designated land uses in the Area in conformity with the comprehensive plan for the development of the Area and for the Town of Palm Shores as a whole; and

WHEREAS, the Town of Palm Shores desires to proceed under Part III, Chapter 163, Florida Statutes, to establish the necessary means by which redevelopment can be accomplished in the Area; and

WHEREAS, after due consideration as required by law, the The Town of Palm Shores Planning Commission has reviewed the Community Redevelopment Plan for the Area, as described in the Community Redevelopment Plan, and found it to be in conformity with the Town's Comprehensive Plan for the development of the Town as a whole; and

WHEREAS, after due consideration as required by the law, the Town of Palm Shores Community Redevelopment Agency has reviewed and approved a Community Redevelopment Plan for the Area; and

WHEREAS, the Community Redevelopment Agency has submitted said Community Redevelopment Plan to the Town Council of the Town of Palm Shores, Brevard County, Florida; and

WHEREAS, after due consideration and public hearing as required by law, the Town Council of the Town of Palm Shores, Brevard County, Florida, deem it appropriate to approve the community Redevelopment Plan for the Town of Palm Shores.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA:

Section 1. Approval of Official Town of Palm Shores Community Redevelopment

Plan: The Community Redevelopment Plan (the "Plan") for redevelopment within the established boundaries of the Town of Palm Shores Community Redevelopment Area, as defined in the Plan, having been duly reviewed and considered in a public hearing as required by law, is hereby approved by this Town Council of the Town of Palm Shores,



CFN:2004199168

OR BookPage: 5323 / 7794

Brevard County, Florida. The Town of Palm Shores Community Redevelopment Plan is adopted as attached hereto as Exhibit "A" and is made a part of this Ordinance by reference. The Plan is hereby designated as the official Community Redevelopment Plan for the Town of Palm Shores Community Redevelopment Area, the boundaries of which and legal description thereof are described in the Plan. It is the purpose and intent of the Town Council of the Town of Palm Shores, Brevard County, Florida that the Community Redevelopment Plan be implemented in this Area and that redevelopment in the Area be carried out pursuant to the Plan.



CFN:2004199168

OR Book/Page: 5323 / 7795

Section 2. Findings of the Town Council of the Town of Palm Shores: The Town Council of the Town of Palm Shores, Brevard County, Florida expressly finds that the Community Redevelopment Plan ("Plan") satisfies the requirements of Part III, Chapter 163, Florida Statutes, because:

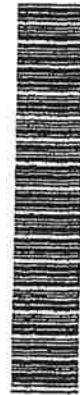
1. The Town Council of the Town of Palm Shores, Brevard County, Florida, in adopting Resolution No. _____, determined the existence of certain slum and blighted areas within the boundary of the Town of Palm Shores Community Redevelopment Area and determined that the rehabilitation, conservation or redevelopment, or a combination thereof, of the Area is necessary in the best interests of the public health, safety, morals, or welfare of the residents and citizens of The Town of Palm Shores, Brevard County;
2. A feasible plan exists for the location of families who will be displaced from the community redevelopment area in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such families;
3. The Plan gives due consideration to the provision of adequate park and recreational areas and facilities that may be desirable for neighborhood improvement, with special consideration for the health, safety, and welfare of children residing in the general vicinity of the site covered by the plans;
4. The Plan will afford maximum opportunity, consistent with the sound needs of the Town as a whole, for the rehabilitation or redevelopment of the community redevelopment area by private enterprise;
5. The Plan conforms to the Town of Palm Shores Comprehensive Plan;

6. The Plan is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the Community Redevelopment Area, zoning and planning changes, land use, maximum density; and building requirements; and
7. The Plan sufficiently addresses affordable housing issues.
8. The Plan is inclusive of the mandatory contents of a community redevelopment plan, as stated in section 163.362, Florida Statutes.

Section 3. Town Council Determinations Regarding Residential Uses of Open Land Acquired by the Town of Palm Shores: In accordance with Florida Statutes Section 163.360(8)(a), which requires certain determinations to be made by the Town Council of the Town of Palm Shores, Brevard County, Florida before open land may be acquired for residential uses, the Town Council of Palm Shores does hereby determine that:

1. A shortage of housing of sound standards and design which is decent, safe, sanitary, and affordable to residents of low or moderate income, including the elderly, exists in the Town;
2. The need for housing accommodations has increased in the area;
3. The conditions of blight in the area or the shortage of decent, safe, affordable, and sanitary housing cause or contribute to an increase and spread of disease and crime or constitute a menace to the public health, safety, morals, or welfare; and
4. The acquisition of any area of open land needed for residential uses is an integral part of and essential to the program.

Section 4. Town Council Determinations Regarding Nonresidential Uses of Open Land Acquired by the Town of Palm Shores: In accordance with Florida Statute 163.360(8)(b), which requires certain determinations to be made by the Town Council of the Town of Palm Shores, Brevard County, Florida before open land may be acquired for nonresidential uses, the Town Council of the Town of Palm Shores does hereby determine that:



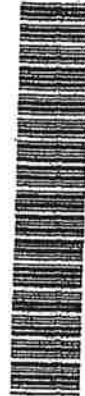
CFN:2004199168

OR BookPage: 5323 / 7796

1. Nonresidential uses in the Community Redevelopment Area are necessary and appropriate to facilitate the proper growth and development of the community in accordance with planning standards and local community objectives; and
2. Acquisition of property within the Community Redevelopment Area may require the exercise of governmental action, as authorized by Part III of Chapter 163, Florida Statutes, or other applicable constitutional, statutory, or ordinance provisions, because of:
 1. Defective, or unusual conditions of, title or diversity of ownership which prevents the free alienation of such land;
 2. Tax delinquency;
 3. Improper subdivisions;
 4. Outmoded street patterns;
 5. Deterioration of site;
 6. Economic disuse;
 7. Unsuitable topography or faulty lot layouts;
 8. Lack of correlation of the area with other areas of the county by streets and modern traffic requirements; or
 9. Any combination of the above or other conditions which retard development of the area.
3. Conditions of blight in the area contribute to an increase in and spread of disease and crime or constitute a menace to public health, safety, morals, or welfare.

SECTION 5. Town Council Approval and Adoption: The Town Council of the Town of Palm Shores, Brevard County, Florida hereby adopts this Plan. Upon the effective date of this Ordinance such Plan is deemed in full force and effect for the Area and the Town then authorizes the Community Redevelopment Agency to carry out the Plan.

SECTION 6. Severability: If any provision of this ordinance is for any reason held unconstitutional or invalid, the remainder of this ordinance shall not be affected.



CFN:2004199168

OR Book/Page: 5323 / 7797

SECTION 7. Effective Date. A certified copy of the ordinance shall be filed with the Clerk of Court within ten days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 8. This ordinance was passed on the first reading at a regular meeting of the town Council on the 25 day of May, 2004, and adopted on second/final reading at a regular meeting of the Town Council on the 22 day of June, 2004.

By: Carol M. McCormack

Mayor, Town of Palm Shores

Sworn and subscribed to before me this 27th day of June, 2004 in Brevard County, Florida by Carol M. McCormack who is personally known to me.

Augusta Robertson
Notary Public State of Florida



Augusta Robertson
My Commission CC948699
Expires August 19, 2004



CFN:2004199168
OR Book/Page: 5323 / 7798

RESOLUTION 2004-05

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM SHORES, BREVARD COUNTY, FLORIDA, APPOINTING THE TOWN COUNCIL TO SERVE AS THE BOARD OF THE TOWN OF PALM SHORES REDEVELOPMENT AGENCY; APPOINTING A CHAIRMAN AND VICE-CHAIRMAN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Palm Shores, Brevard County, Florida, has adopted a resolution finding the existence of certain slum or blighted areas within the boundary of the Redevelopment Area, hereafter referred to as the "Area", and determining that the rehabilitation, conservation or redevelopment, or a combination thereof, of the Area by a Redevelopment Agency is necessary in the best interests of the public health, safety, morale or welfare of the residents and citizens of the Town of Palm Shores; and

WHEREAS, the Town Council of The Town of Palm Shores has commissioned a study which has confirmed the findings of the slum and blight; and

WHEREAS, the Town Council of the Town of Palm Shores has adopted a resolution finding that conditions exist in the area that meet the criteria described in Florida Statutes section 163.340.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM SHORES:

SECTION ONE The Town Council of the Town of Palm Shores, Brevard County, Florida, shall serve as the Board Of Commissioners of the Palm Shores community Redevelopment Agency.

SECTION TWO The Chairman and Vice Chairman shall be designated by majority vote of the Board.

SECTION THREE This resolution shall take effect immediately upon its passage.

DONE, ORDERED, AND ADOPTED, in regular session, this 11th day of MAY, 2004.


Carol M. McCormack, Mayor

Resolution 2004-05

ATTEST:



Pam Waters
Pam Waters, Town Clerk

[Print](#)

Palm Shores, FL Code of Ordinances

Sec. 2.08 MAYOR

The mayor shall qualify and run for office for a term of four (4) years as hereinafter provided. He shall be a voting member of the council, the presiding officer of the council, the chief executive officer and the titular and administrative head of the Town. The mayor is recognized as head of the Town government for administrative and ceremonial purposes, for the purposes of service of civil process, and for purposes of military law. The mayor shall execute all instruments to which the Town is a party unless otherwise provided by this Charter or by law. The council shall elect from its membership a Vice Mayor who shall serve as Mayor in the absence of the Mayor.

EXHIBIT "C"

[Print](#)

Palm Shores, FL Code of Ordinances

Sec. 1.05 FORM OF GOVERNMENT

The form of government provided by this charter shall be known as the "strong mayor government". Pursuant to its provisions and subject only to the limitations imposed by the Constitution, general and special acts and laws of the state of Florida and by this Charter, all legislative powers of the Town shall be vested in an elected council, hereinafter referred to as the "Council". It shall enact ordinances, adopt resolutions, adopt budgets, and determine policies. The Mayor shall execute the laws and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed by this charter. If the manner is not prescribed, then the powers shall be exercised in such manner as may be prescribed by ordinances.

EXHIBIT "D"

June 12, 2017

In either late 2010 or early 2011 the Mayor and I met with Doug Robertson who was then the planner for the town of Palm Shores. It was decided that it would be appropriate to apportion 30% to 35% of the Mayor/Town Manager's salary to the CRA since the majority of her time was devoted to handling CRA issues. Over time, this percentage has decreased.

No other office wages (Town Clerk, Administrative Assistant, Building Official or Accountant) were apportioned to the CRA despite the fact that all those individuals work on CRA related activities. Also, no travel expense, insurance premiums, office supplies, postage, professional development or other such expenses have been apportioned to the CRA.

A handwritten signature in black ink, appearing to read "Jane Antonsen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jane Antonsen

Accountant

Tyler Winik

From: Carol McCormack <mayor@townofpalmshores.org>
Sent: Wednesday, June 14, 2017 10:27 AM
To: Tyler Winik
Cc: Scott Ellis (scott.ellis@clerk.co.brevard.fl.us)
Subject: CRA
Attachments: 20170614102419027.pdf

Attached please find my letter of resignation from the CRA. I trust this information will be of help.

Sincerely,

Mayor Carol M. McCormack

Town of Palm Shores
5030 Paul Hurtt Lane
Palm Shores, Florida 32940
321-242-4555
321-254-7883 fax.

PUBLIC RECORDS NOTICE: All e-mail sent to and received from the Town of Palm Shores, Florida, including e-mail addresses and content, are subject to the provisions of the Florida Public Records Law, Florida Statute Chapter 119, and may be subject to disclosure.

CONFIDENTIALLY NOTICE: The information contained in this email message may be privileged and is confidential information intended only for the use of the recipient. Any unauthorized use, distribution or copying of this information is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately and destroy the original message and all attachments from your electronic files.

EXHIBIT "F"

TOWN OF PALM SHORES



"The Little Town That Cares"

MEMORANDUM

To: Town Council

From: Mayor Carol M. McCormack

A handwritten signature in cursive script, appearing to read "Carol", written over the printed name of Mayor Carol M. McCormack.

Re: Community Redevelopment Director

Date: June 9, 2017

Please accept this as my resignation as the Community Redevelopment Director effective immediately.

5030 Paul Hurtt Lane • Palm Shores, FL 32940
Phone: 321-242-4555 • Fax: 321-254-7883
Visit us at: www.townofpalmshores.org



Florida Attorney General Advisory Legal Opinion

Number: AGO 2010-40

Date: September 27, 2010

Subject: Community Redevelopment, promotional activities

Mr. Lonnie Groot
1001 Heathrow Park Lane
Suite 4001
Lake Mary, Florida 32746

RE: COMMUNITY REDEVELOPMENT - MUNICIPALITIES - use of community redevelopment funds for promotional activities. Part III, Ch. 163, Fla. Stat.

Dear Mr. Groot:

On behalf of the City of Sanford Commission, you ask substantially the following question:

May the City of Sanford's Community Redevelopment Agency expend funds for festivals or street parties designed to promote tourism and economic development, advertisements for such events, grants to entities which promote tourism and economic development, and grants to non-profit entities providing socially beneficial programs?

In sum:

Promoting the use of a redeveloped area would appear to fall within the purposes of the community redevelopment act. Use of community redevelopment funds to pay entities promoting tourism or providing socially beneficial programs, however, does not have an apparent nexus to carrying out the purposes of the community redevelopment act.

You state that the City of Sanford has implemented the provisions of the Community Redevelopment Act of 1969, Part III, Chapter 163, Florida Statutes, in creating the City of Sanford Community Redevelopment Agency (SCRA). The SCRA proposes to use funds to stage festivals or street parties to promote tourism and economic development, to provide grants to entities that encourage tourism and economic development, and to provide grants to non-profit entities which provide a wide range of socially beneficial programs. The question has arisen, however, whether such expenditures may be paid by the SCRA.

Pursuant to the act, a local government may determine that an area is a slum or is blighted and designate such area as appropriate for community redevelopment. [1] The Legislature has declared that slum and blighted areas constitute a serious and growing menace to the public health,

safety, morals, and welfare of the residents of the state.[2] To address this matter, local governments, upon adoption of a resolution based upon legislative findings that the conditions in an area meet specified criteria described in the act, may create a community redevelopment agency.[3] The agency's purpose is to carry out community redevelopment purposes set forth in the act.[4]

"Community redevelopment" or "redevelopment" is defined in the act as:

"undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight, or for the reduction or prevention of crime, or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed, or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan." [5]

Among the powers granted by the act to carry out community redevelopment are: to make contracts; to disseminate slum clearance and community redevelopment information; to undertake community redevelopment and related activities; [6] to furnish or repair streets, public utilities, playgrounds, and other public improvements; to hold or dispose of property for redevelopment. [7]

Section 163.387, Florida Statutes, establishes a redevelopment trust fund for each community redevelopment agency created pursuant to section 163.356, Florida Statutes, and provides for its annual funding. Pursuant to subsection (1) of the statute, funds allocated to and deposited into the fund shall be used by a community redevelopment agency "to finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan."

The expenditure of moneys in the redevelopment trust fund is specifically authorized by section 163.387(6), Florida Statutes, "for undertakings of a community redevelopment agency as described in the community redevelopment plan," including, but not limited to:

- "(a) Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.
- (b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- (c) The acquisition of real property in the redevelopment area.
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of

indebtedness.

(f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.

(g) The development of affordable housing within the community redevelopment area.

(h) The development of community policing innovations."

While the statute specifically states that the use of community redevelopment trust funds is not limited to those purposes enumerated therein, the community redevelopment agency is a statutorily created administrative agency that may only exercise those powers that have been expressly granted by statute or that are necessarily exercised in order to carry out an express power.[8] Any reasonable doubt as to the lawful existence of a particular power sought to be exercised must be resolved against the exercise thereof.[9] Moreover, it is well settled that legislative intent is the polestar that guides a court's statutory construction analysis[10] and would, therefore, limit the expenditures by the community redevelopment agency.

I would note that the Redevelopment Plan and Finding of Necessity for the Lake Monroe Waterfront and Downtown Sanford Redevelopment Area[11] contains a "Promotional Marketing" component, recognizing the importance of funding for events, advertising and marketing to bring people to the redevelopment area. The plan notes that the SCRA budget is subject to approval by the City of Sanford. Therefore, ultimately, it is a decision for the governing body of the City of Sanford to determine whether promotional expenditures may be included in the SCRA budget. Although a city has home rule powers, in matters involving the imposition of a tax and the expenditure of the proceeds from such a tax, the city must be able to point to statutory or constitutional authority.[12] The courts of this state have recognized the general rule that tax revenues must be expended for the purposes for which they were collected, that is, funds raised by taxation for one purpose cannot be diverted to another use.[13] In addition, this office has stated, for example, that moneys collected pursuant to the original ordinance imposing a tourist development tax could only be used to accomplish the purposes set forth in the original plan for tourist development and could not be expended for the purposes set forth in the new ordinance or considered in a new tourist development plan.[14]

As discussed above, it would appear that the primary focus of a community redevelopment agency is to eliminate and prevent the development or spread of slums and blight. This may be accomplished by reducing or preventing crime, by providing affordable housing, clearing slums and redeveloping in a community redevelopment area, or by rehabilitating or conserving in a community redevelopment area, or any combination or part thereof. The enumerated uses of community redevelopment trust fund moneys are likewise couched in terms of redevelopment activities involving "bricks and mortar" in a manner of speaking, rather than promotional campaigns to encourage people to populate the area once the redevelopment has been accomplished. However, to read the statute as precluding the promotion of a redeveloped

area once the infrastructure has been completed would be narrowly viewing community redevelopment as a static process.

Accordingly, I cannot say that the use of community redevelopment funds would be so limited that the expenditure of funds for the promotion of a redeveloped area would be prohibited. However, grants to entities which promote tourism and economic development, as well as to nonprofits providing socially beneficial programs would appear outside the scope of the community redevelopment act.

Sincerely,

Bill McCollum
Attorney General

BM/tals

[1] See s. 163.358, Fla. Stat.

[2] Section 163.335(1), Fla. Stat.

[3] Section 163.355, Fla. Stat. Subsections 163.340(7) and (8), Fla. Stat., provide definitions for "[s]lum area" and for "[b]lighted area" for purposes of the act:

"(7) 'Slum area' means an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements . . . which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:

(a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;

(b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or

(c) The existence of conditions that endanger life or property by fire or other causes.

(8) 'Blighted area' means an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

(a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;

(b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;

(c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(d) Unsanitary or unsafe conditions;

- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term 'blighted area' also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a) agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted. Such agreement or resolution shall only determine that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, 'blighted area' means an area as defined in this subsection."

[4] Section 163.356(1), Fla. Stat.

[5] Section 163.340(9), Fla. Stat.

[6] Section 163.340(12), Fla. Stat., defines "[r]elated activities" as: planning work for the preparation of a general neighborhood redevelopment plan or for the preparation or completion of a communitywide plan or program pursuant to s. 163.365, Fla. Stat.; functions related to the acquisition and disposal of real property; development of affordable housing for residents of a redevelopment area; and the development of community policing innovations.

[7] See s. 163.370, Fla. Stat., which contains numerous other powers, none of which specifically include programs which would encompass a street festival or party to promote tourism or community redevelopment.

[8] See, e.g., *Gardinier, Inc. v. Florida Department of Pollution Control*, 300 So. 2d 75, 76 (Fla. 1st DCA 1974); *Williams v. Florida Real Estate Commission*, 232 So. 2d 239, 240 (Fla. 4th DCA 1970).

[9] See *Halifax Drainage District of Volusia County v. State*, 185 So. 123, 129 (Fla. 1938); *State ex rel. Greenberg v. Florida State Board of Dentistry*, 297 So. 2d 628 (Fla. 1st DCA 1974), cert. dismissed, 300 So. 2d 900 (Fla. 1974); *City of Cape Coral v. GAC Utilities, Inc., of Florida*,

281 So. 2d 493 (Fla. 1973). And see, e.g., Ops. Att'y Gen. Fla. 02-30 (2002) and 04-48 (2004).

[10] See *State v. Rife*, 789 So. 2d 288, 292 (Fla. 2001); *McLaughlin v. State*, 721 So. 2d 1170, 1172 (Fla. 1998).

[11] Originally drafted November 21, 1995; Last updated July 29, 2009.

[12] See generally *Contractors and Builders Association of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317 (Fla. 1976). See also *City of Tampa v. Birdsong Motors, Inc.*, 261 So. 2d 1 (Fla. 1972) (municipality's power to tax is subject to the restrictions in Art. VII, s. 9, Fla. Const.).

[13] See *Supreme Forest Woodmen Circle v. Hobe Sound Company*, 138 Fla. 141, 189 So. 249 (1939); *Dickinson v. Stone*, 251 So. 2d 268, 273-274 (Fla. 1971) (it is a violation of an elemental principle in the administration of public funds for one who is charged with the trust of their proper expenditure not to apply those funds to the purposes for which they are raised). And see *Oven v. Ausley*, 106 Fla. 455, 143 So. 588 (1932); *Taylor v. Williams*, 142 Fla. 756, 196 So. 214 (Fla. 1940).

[14] See Op. Att'y Gen. Fla. 96-26 (1996). And see Ops. Att'y Gen. Fla. 86-39 (1986), 82-54 (1982), and 77-26 (1977).

J E

Tobia, John

From: Knox, Scott L
Sent: Tuesday, August 29, 2017 11:22 AM
To: Tobia, John
Subject: RE: CRA Use of Funds for Events
Attachments: CAO-#73425-v1-SATELLITE_BEACH_CRA__COMMUNITY_REDEVELOPMENT_AGENCY_-_INT....pdf

Categories: Blue category

Commissioner:

The action taken the last time something like this came up involved the Clerk of the Circuit Court. I could be wrong, but I believe the Clerk conducted a preliminary investigation of the city's CRA expenditures, then requested an audit of City CRA expenditures by the Joint Legislative Auditing Committee, which resulted a comprehensive forensic audit, the auditors findings of improper expenditures and eventually, the attached interlocal agreement for repayment of the County in order to avoid litigation between the State and/or the County against the City for reimbursement. I would consider an audit establishing a violation of the statutory restrictions on CRA expenditures to be an indispensable prerequisite to either pursuing litigation or convincing a city that it needed to provide reimbursement to avoid a County lawsuit to recover the misspent funds. That audit could be requested of the JLAC by the County or the County could retain the services of an auditor to conduct the necessary review of the city's CRA expenditures. I suspect the JLAC and the County Commission would likely require some evidence supporting the need for an audit in order to move forward.

Once a violation of the statutory restrictions on spending tax increment funds has been formally established by an audit, the precedent set by the County has resulted in settlements with the offending cities through interlocal agreements providing for the refund of the County's pro rata amount of CRA moneys spent on the activities that were not authorized by the statute. Thus far, both cities involved in such activities have responded by reimbursing the county—one in the pro-rated amount representing the ratio of county's tax increment to the city's tax increment of the improper expenditures . The other city repaid the entire amount because that city does not levy ad valorem taxes and, therefore, contributed no tax increment to the CRA.

Scott L. Knox, Brevard County Attorney
2725 Judge Fran Jamieson Way
Melbourne, FL 32940
(321) 633-2090

The State of Florida has a broad public records law and a request made under the authority of that Public Records law may require the disclosure and copying of any email sent to this office unless exempt, privileged or confidential under state law .

From: Tobia, John
Sent: Tuesday, August 29, 2017 9:47 AM
To: Knox, Scott L
Subject: RE: CRA Use of Funds for Events

Mr. Knox,

Thank you for providing this opinion.

As a follow-up, if a CRA were to have engaged in this activity, what would be the County's options?

In particular, what would the options be with a post-Charter CRA, and what would be options as to a pre-Charter CRA?

Sincerely,



John Tobia
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

From: Knox, Scott L
Sent: Monday, August 28, 2017 2:48 PM
To: Tobia, John
Cc: Bentley, Eden
Subject: RE: CRA Use of Funds for Events

Commissioner you have asked the following questions:

1. Is it lawful, considering Fla. Stat. § 163.370(3)(c) or any other provision of law, for a Community Redevelopment Agency to directly fund public events in their geographic boundaries, such as parades or block parties.
2. Is it lawful for a CRA to indirectly fund public events by providing grants to private business with the intention that the funds be used for such events

Short Answer to both: No

The redevelopment statute is very specific about what redevelopment trust fund moneys can be spent on. That list is set forth in the statute as follows:

Fla. Stat. Ann. § 163.387 Redevelopment Trust Fund

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

(a) Administrative and overhead expenses necessary or **incidental** to the implementation of a community redevelopment plan adopted by the agency.

- (b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.
- (c) The acquisition of real property in the redevelopment area.
- (d) The clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370.
- (e) The repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness.
- (f) All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness.
- (g) The development of affordable housing within the community redevelopment area.
- (h) The development of community policing innovations.

I am not aware of any redevelopment plan that describes parades or block parties as redevelopment projects for which CRA trust fund moneys may be spent. I am of the opinion that use of CRA trust funds for parades or block parties would not conform to any of the authorized uses of such funds, as specified in the statute.

The use of funds for those purposes would not even include “administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency” because 1) funds spent on parades and block parties do not, in my opinion, in any way involve the operation of a redevelopment agency and 2) the term “incidental” has been construed to mean “[d]epending upon or appertaining to something else as primary; ... something incidental to the main purpose.” Trinity Episcopal Sch., Inc. v. Robbins, 605 So. 2d 880, 883 (Fla. Dist. Ct. App. 1992). Given the definitions of “redevelopment” and “related activities”, below, parades and block parties, in my opinion, do not depend upon or appertain to the implementation of a plan for redevelopment of an area.

Fla. Stat. Ann. § 163.340 Definitions

(9) “Community redevelopment” or “redevelopment” means undertakings, activities, or projects of a county, municipality, or community redevelopment agency in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight, or for the reduction or prevention of crime, or for the provision of affordable housing, whether for rent or for sale, to residents of low or moderate income, including the elderly, and may include slum clearance and redevelopment in a community redevelopment area or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed, or rehabilitation or conservation in a community redevelopment area, or any combination or part thereof, in accordance with a community redevelopment plan and may include the preparation of such a plan.

(12) “Related activities” means:

- (a) Planning work for the preparation of a general neighborhood redevelopment plan or for the preparation or completion of a communitywide plan or program pursuant to s. 163.365.
- (b) The functions related to the acquisition and disposal of real property pursuant to s. 163.370(4).
- (c) The development of affordable housing for residents of the area.
- (d) The development of community policing innovations.

Scott L. Knox, Brevard County Attorney
 2725 Judge Fran Jamieson Way
 Melbourne, FL 32940
 (321) 633-2090

The State of Florida has a broad public records law and a request made under the authority of that Public Records law may require the disclosure and copying of any email sent to this office unless exempt, privileged or confidential under state law .

From: Tobia, John
Sent: Friday, August 25, 2017 2:32 PM
To: Knox, Scott L
Subject: CRA Use of Funds for Events



BOARD OF COUNTY COMMISSIONERS

COMMISSIONER JOHN TOBIA, DISTRICT 3

2539 Palm Bay Rd. NE
Suite 4
Palm Bay, Florida 32905
John.Tobia@Brevardfl.gov

Mr. Knox,

I am requesting your formal opinion on the following:

1. Is it lawful, considering Fla. Stat. § 163.370(3)(c) or any other provision of law, for a Community Redevelopment Agency to directly fund public events in their geographic boundaries, such as parades or block parties
2. Is it lawful for a CRA to indirectly fund public events by providing grants to private business with the intention that the funds be used for such events

I request that this opinion be rendered by September 6, 2017.

Sincerely,

John Tobia
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

LG

Tobia, John

From: Knox, Scott L
Sent: Wednesday, October 18, 2017 3:09 PM
To: Tobia, John; Prasad, Billy
Cc: Abbate, Frank B
Subject: RE: Babcock CRA, Williamson

Commissoner/Billy:

As to the Plaintiffs' attorney's fees for Williamson, we are informed by Risk Management and the CMO the answer is yes, the County has coverage.

As to Commissioner Tobia's question re Causes of Action for recovery of from the Melbourne CRAs, I believe the answer was set forth in one of the prior opinions. The county would need an audit determining the source and amount of any improper CRA expenditures in order to obtain the necessary evidence to prove a case. So, the answer is yes, the County would have a cause of action and could file a suit after going through the mandatory mediation required by chapter 164, Florida Statutes, however, before proceeding to suit I would advise the BCC to commission the audit necessary to provide the evidentiary basis for such a claim.

I am copying Frank for his recollection on the Exhibit A question, though I seem to recall the City Manager balking at the inclusion of Exhibit A since all of the City CRA records can be reviewed to obtain the requested information.

As to the completion of projects by FY 17 and the ability to continue "streetscape," a search of two of the online CRA plans did not pick up a 2017 project termination date. Can you tell me which CRA plan you were looking at or, do you have a copy of the portion of the plan that shows that date? If that is the project end date, the language in that section, whether mandatory or permissive, would likely determine if projects like streetscapes can continue until the termination date.

Scott L. Knox, Brevard County Attorney
2725 Judge Fran Jamieson Way
Melbourne, FL 32940
(321) 633-2090

The State of Florida has a broad public records law and a request made under the authority of that Public Records law may require the disclosure and copying of any email sent to this office unless exempt, privileged or confidential under state law .

From: Prasad, Billy
Sent: Wednesday, October 18, 2017 1:43 PM
To: Knox, Scott L
Subject: Babcock CRA, Williamson

Mr. Knox,

I just have a few questions on a couple of different subjects.

First, on the *Williamson* case, will the County's insurance policy cover attorney's fees?

On the Babcock CRA, Commissioner Tobia mentioned to me that you said his suggested annual report language was present in the ILA. While I thought it would require an annual report, it did not seem to require the additional standardized report (i.e. "exhibit A" in other agreements). While the statutorily required annual report may actually exceed the information in the standardized form, is it the case that the ILA in its current form does not include this? Additionally, when I looked at their last CRA plan, it looked like all of their projects were to be completed in FY 17. However, I don't know if they actually were. Do you think that the CRA would be held to that timeline in any way, and would general projects (e.g. "continued streetscape") be permitted beyond the projection if they are listed in the plan?

Finally, did you receive Commissioner Tobia's question regarding potential causes of action on the other two Melbourne CRAs?

Regards,

Billy M. Prasad
Chief of Staff/Legal Analyst to Commissioner Tobia, District 3
Billy.Prasad@BrevardFL.gov
(321) 633-2075
2539 Palm Bay Rd.
Suite 4
Palm Bay, FL 32905

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. .Your email communications may therefore be subject to public disclosure.

STAFF ANALYSIS

Date: February 4, 2019

Subject: Request for an Operational Audit of Issues Relating to the City of Melbourne

Analyst Coordinator

White ^{DW} DuBose ^{KD}

I. Summary:

The Joint Legislative Auditing Committee (Committee) has received a request from Representative Randy Fine to have the Committee direct the Auditor General to conduct a targeted operational audit of the City of Melbourne focused on questionable spending of taxpayer monies on nonprofits and/or community redevelopment agencies.

II. Present Situation:

Current Law

Joint Rule 4.5(2) provides that the Legislative Auditing Committee may receive requests for audits and reviews from legislators and any audit request, petition for audit, or other matter for investigation directed or referred to it pursuant to general law. The Committee may make any appropriate disposition of such requests or referrals and shall, within a reasonable time, report to the requesting party the disposition of any audit request.

Joint Rule 4.5(1) provides that the Legislative Auditing Committee may direct the Auditor General or the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an audit, review, or examination of any entity or record described in Section 11.45(2) or (3), *Florida Statutes*.

Section 11.45(3)(a), *Florida Statutes*, provides that the Auditor General may, pursuant to his or her own authority, or at the discretion of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of the accounts and records of any governmental entity created or established by law.

Section 11.45(2)(j), *Florida Statutes*, provides, in part, that the Auditor General shall conduct a follow-up to his or her audit report on a local governmental entity no later than 18 months after the release of the audit report to determine the local governmental entity's progress in addressing the findings and recommendations contained in the previous audit report.

Request for a Targeted Operational Audit of the City of Melbourne

Representative Fine has requested the Committee to direct a targeted operational audit of the City of Melbourne (City) focused on questionable spending of taxpayer monies on nonprofits and community redevelopment agencies. Specifically, he requested the internal controls, statutory compliance, and

results of the City's involvement in the Honor America charity, the Melbourne Community Redevelopment Agency and the Olde Eau Gallie Community Redevelopment Agency be probed. He stated that, based on the numerous documents which have been brought to his attention, he has "grave concerns regarding the activities of the City both in respect to the Honor America relationship as well as the Community Redevelopment Agencies ('CRAs') operating within Brevard County."

Background

City of Melbourne: The City of Melbourne, Florida, was formed in 1969¹ as a result of the unification of the former cities of Melbourne and Eau Gallie. The City is located in Brevard County and has an estimated population of 82,040.² The City is governed by a City Council composed of a Mayor and six City Council Members, each of whom serve a four-year staggered term.³ While each Council Member represents a district and must reside in the respective district, they are elected at-large. The Mayor may reside anywhere in the City and is also elected at-large.⁴ The City operates under a Council-City Manager form of government, and the City Council hires the City Manager, who is responsible for carrying out the policies and ordinances of the City Council, overseeing the day-to-day operations of the City, and appointing the heads of the various departments.⁵ The City provides services to its residents, including general government administration; police and fire protection; public works; water and sewer service; a stormwater utility; recreational activities, including two golf courses; and an airport.⁶

Melbourne Community Redevelopment Agency: The Melbourne CRA, also referred to as the Melbourne Downtown CRA, was created as a dependent special district of the City of Melbourne on August 24, 1982, under the authority granted by Chapter 163, Part III, *Florida Statutes*, and by City Ordinances 82-38 and 2017-56, as amended. It is governed by the Melbourne City Council, and the City manages its operations.⁷ The Melbourne CRA's purpose is to eliminate slum and blight conditions within its boundaries,⁸ approximately 241 acres primarily to the south along the US 1 Corridor.⁹ The Melbourne CRA's primary revenue source is tax increment financing (TIF), and the revenue generated from the assessments on downtown properties are restricted and used to fund capital improvements that encourage development in the downtown area.¹⁰ Its activities are accounted for by the City as a Special Revenue fund entitled "Downtown Redevelopment fund."¹¹

¹ Note 1 to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 31.

² University of Florida, College of Liberal Arts and Sciences, Bureau of Economic and Business Research, *Florida Population Estimates for Counties and Municipalities 2018*, page 5.

³ *Letter of Transmittal*, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page vii.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Note 1.A. to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 31.

⁸ Melbourne CRA's webpage on the City of Melbourne's website:

<https://www.melbourneflorida.org/departments/community-development/community-redevelopment-areas/melbourne-downtown-cra>

⁹ *City of Melbourne 2017 Annual Reports – Melbourne Community Redevelopment Agencies*, page 3.

¹⁰ Note 1.C. to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 33.

¹¹ Note 1.A. to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 31.

Olde Eau Gallie Community Redevelopment Agency: The Olde Eau Gallie Riverfront CRA, also referred to as the Olde Eau Gallie Riverfront CRA, was created as a dependent special district of the City of Melbourne on August 29, 2000, under the authority granted by Chapter 163, Part III, *Florida Statutes*, and by County Ordinance 2000-249, City Resolutions 1657 and 3503, and City Ordinances 2001-23 and 2015-31. The CRA is governed by the Melbourne City Council, and the City manages its operations.¹² The Olde Eau Gallie CRA's purpose is to eliminate slum and blight conditions within its boundaries, approximately 217 acres¹³ that includes a downtown that was once the City of Eau Gallie, prior to the cities of Eau Gallie and Melbourne merging in 1969 upon approval by voters.¹⁴ The Olde Eau Gallie CRA's primary revenue source is tax increment financing (TIF), and the revenue generated from the assessments on properties within the Eau Gallie district are restricted and used to fund capital improvements to revitalize the urban core area of Eau Gallie.¹⁵ Its activities are accounted for by the City as a Special Revenue fund entitled "Olde Eau Gallie Redevelopment fund."¹⁶

Review of Attorney General Opinion and Laws Relating to Community Redevelopment

Chapter 163, Part III, F.S., is known as the "Community Redevelopment Act of 1969." Section 163.387(1)(a), *Florida Statutes*, requires funds allocated to, and deposited in, the CRA trust fund to be used to finance or refinance any community redevelopment a CRA undertakes pursuant to the approved community redevelopment plan. "Community redevelopment" or "redevelopment" is defined in Section 163.340(9), *Florida Statutes*, as undertakings, activities, or projects in a community redevelopment area for the elimination and prevention of the development or spread of slums and blight; or for the reduction or prevention of crime; or for the provision of affordable housing, and may include slum clearance and redevelopment in a community redevelopment area; or rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed; or rehabilitation or conservation in a community redevelopment area; or any combination or part thereof, in accordance with a community redevelopment plan. Section 163.387(6), *Florida Statutes*, describes certain allowable items for which CRA trust fund monies may be expended.

Attorney General Opinion No. 2010-40, dated September 27, 2010, addresses the use of community redevelopment funds for promotional activities. The City of Sanford asked if its CRA was allowed to "expend funds for festivals or street parties designed to promote tourism and economic development, advertisements for such events, grants to entities which promote tourism and economic development, and grants to non-profit entities providing socially beneficial programs?" The Opinion stated, in part, that "...to read the statute as precluding the promotion of a redeveloped area once the infrastructure has been completed would be narrowly viewing community redevelopment as a static process. Accordingly, I cannot say that the use of community redevelopment funds would be so limited that the expenditure of funds for the promotion of a redeveloped area would be prohibited. *However, grants to entities which promote tourism and economic development, as well as to nonprofits providing socially beneficial programs would appear outside the scope of the community redevelopment act.*" [emphasis added]

¹² Note 1.A. to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 31.

¹³ *City of Melbourne 2017 Annual Reports – Melbourne Community Redevelopment Agencies*, page 15.

¹⁴ Olde Eau Gallie CRA's webpage on the City of Melbourne's website:

<https://www.melbourneflorida.org/departments/community-development/community-redevelopment-areas/melbourne-downtown-cra>

¹⁵ Note 1.C. to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 33.

¹⁶ Note 1.A. to the Financial Statements, *City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 31.

Recent Concerns, Events, and Other Information

Concerns

As previously mentioned, based on the numerous documents which have been brought to his attention, Representative Fine's concerns are focused on questionable spending of taxpayer monies, specifically the City's involvement in:

1. Honor America charity:

- It had been suspended by the State of Florida from soliciting contributions.
- A City of Melbourne Councilwoman¹⁷ (who was Vice Mayor and also President of this charity at the time) in February 2015 made a Council motion for the City to provide \$15,000 to her charity in order to qualify for a matching \$15,000 private grant for the purchase of a new, \$30,000 roof for the building being used by the charity AND voted for it.
- There is no verification by the City that such a private donor ever existed, and it appears that none, in fact, did.
- After receiving approval for the funds, rather than getting a new roof the charity only procured a minor repair (\$5,500).
- In order to justify receipt of the full \$15,000 of tax dollars instead of the much lower cost of roof repairs, the charity engaged in a complicated and fraudulent invoicing scheme - the Councilwoman/President of the charity provided inflated invoices to the City and then arranged for the roofing contractor to kick-back half of the taxpayer funds to Honor America.
- Discussion of the kickback scheme is included in Honor America board meeting minutes:
 - The Executive Director of Honor America (also a West Melbourne City Councilman) intercepted kick-back of \$7,000 and had the roofing contractor rewrite the check to his own non-profit, Brevard Hall of Fame.¹⁸
 - In late March 2018, he was arrested by for fraud¹⁹ in connection with this embezzlement of taxpayer funds and resigned from the West Melbourne City Council in mid-April 2018.²⁰
- Current status: A recent news article indicates that: (1) the court case is ongoing, with the next hearing scheduled for mid-February 2019; and (2) in November 2018, the Florida Department of Agriculture and Consumer Services restored Honor America's registration to solicit donations as a charitable organization, which had been suspended since August 2017 after a financial statement was not filed.²¹

Representative Fine states, “[w]hile the arrest of former Councilman Tice deals with the alleged illegal embezzlement of the taxpayer funds, I believe it is necessary to audit the conditions under which taxpayer funds could be directed to a charity operated by an elected official without any of

¹⁷ She was defeated for re-election in November 2018 municipal election and is no longer on City Council. (Rick Neale, *Melbourne councilman moves to fire City Manager Mike McNeas*, Florida Today, November 21, 2018/updated November 23, 2018)

¹⁸ News articles reference the Liberty Bell Memorial Museum in relation to this issue.

¹⁹ He is charged with diverting a contractor's \$7,000 check written to the Liberty Memorial Museum and spending the money on Miami Dolphins season tickets, football memorabilia, restaurants, and personal debt payments. (Rick Neale, *Liberty Bell Memorial Museum to reopen doors after months of controversy, closure*, Florida Today, December 26, 2018.)

²⁰ Rick Neale, *West Melbourne City Council appoints Hammock Lakes HOA President to replace John Tice*, Florida Today, May 2, 2018.

²¹ Rick Neale, *Liberty Bell Memorial Museum to reopen doors after months of controversy, closure*, Florida Today, December 26, 2018.

the necessary controls in place to verify the private donor or the work being conducted. It is my view that had appropriate controls been in place, Councilman Tice would never have been able to steal the funds.”

Specific Request:

Representative Fine requests that “the JLAC direct the Auditor General to perform a targeted operational audit, which focuses on this, and any other transactions, from the City of Melbourne to Honor America and determine whether appropriate controls were in place for the request, authorization, approval, and verification of the appropriate spending of such funds.”

2. Community Redevelopment Agencies

Representative Fine states that, in late 2017, the then-County Attorney of Brevard County issued a series of opinions to the Brevard County Board of County Commissioners stating that, in his professional opinion, several CRAs have misappropriated City and County tax increment financing (TIF) revenue. Following his opinion that the Town of Palm Shores CRA had illegally been paying its mayor out of its CRA funds, that CRA was voluntarily terminated. However, he identified more unlawful expenditures by certain other CRAs throughout the County. Unlike the Town of Palm Shores CRA, these CRAs have refused accountability for these expenditures, including two CRAs operating within the City: (1) Melbourne CRA and (2) Olde Eau Gallie CRA. Specific issues include:

- Both CRAs appropriated CRA funds in order to fund festival activities, accomplishing such by funneling the funds through a third-party organization, which adds another layer of problematic behavior.
- The Melbourne CRA predates the County Charter, so the County lacks authority to take action.
- While Brevard County does have some authority to take action regarding the expenditures of County TIF funds as to the Olde Eau Gallie CRA, it has failed to do so, despite its own County Attorney detailing the unlawful nature of the CRA’s dealings.

Specific Request:

Representative Fine states that, “...due to the nature of these expenditures, an operational audit is needed to determine how much revenue has been misappropriated, and the source of those funds (i.e. County TIF, City TIF, or intergovernmental transfer)...Furthermore, given that the expenditures on festivals were only brought to light after inquiries from a County Commissioner, it seems entirely possible (if not likely) that other questionable expenditures have taken place.” He requests that the Auditor General’s operational audit scope also include the practices of the Melbourne CRA and the Olde Eau Gallie Riverfront CRA.

Financial Audit

The City has obtained annual financial audits of its accounts and records, which include the City’s community redevelopment agencies, by an independent certified public accountant (CPA). The City has submitted the audit reports to the Auditor General’s Office in accordance with Section 218.39(1),

Florida Statutes.²² The most recent financial audit report submitted to the Auditor General is for the 2016-17 fiscal year and did not include any audit findings. In addition, the audit report stated that corrective action was taken to fully address the three audit findings and recommendations made in the 2015-16 fiscal year financial audit report, which related to grant expenditures reported on the Schedule of Expenditures of Federal Awards, recording of certain accounts payable, and lack of documentation for certain purchase card expenditures.

Summary of Certain Financial Information Included in the City's Audit Report:

- “The assets and deferred outflows of resources of the City...exceeded its liabilities and deferred inflows at September 30, 2017 by \$211,204,105. Of this amount \$18,106,543 may be used to meet the City’s ongoing obligations to citizens and creditors.”²³
- “The City’s total net position increased by \$14,886,179, \$6,113,477 in governmental activities and \$8,772,702 in business-type activities.”²⁴ This amount excludes the Melbourne International Airport, a discretely presented component unit.²⁵
- “At September 30, 2017, the City’s governmental funds reported combined ending fund balances of \$58,913,017[,] an increase of \$7,549,949 in comparison with the prior year. Approximately 31% of this amount (\$18,169,931) is available for spending at the government’s discretion (unassigned fund balance).”²⁶ “The remainder of fund balance is *non-spendable, restricted, committed, or assigned* to indicate that it is not available for new spending because it is 1) obligated for long term advances to other funds; inventory, prepaids; land held for resale; and perpetual care (\$905,748), 2) restricted for specific purposes (\$27,019,983), 3) restricted for debt service (\$143,403), 4) committed for economic development (\$333,334), or 5) assigned to pay for obligations previously authorized by the City (\$12,340,618).”²⁷
- “At the end of the current year, unrestricted fund balance (the total of assigned and unassigned components of fund balance) in the General fund was \$23,133,162 or 31% of total General fund expenditures for fiscal year 2017.”²⁸
- “The City’s total debt decreased \$5,495,991 during the current fiscal year. Th[is] reflects increases of \$467,788 for funds from the State Revolving Fund loan, offset by \$131,925 for net accretion on the Water and Sewer Refunding Revenue Bonds, Series 2002B and the normal reductions resulting from annual debt service and lease payments of \$5,831,854”²⁹
- Financial information for the 2016-17 fiscal year for the Melbourne CRA and the Olde Eau Gallie CRA is shown in the following table:³⁰

²² Pursuant to Section 218.39(7), *Florida Statutes*, these audits are required to be conducted in accordance with rules of the Auditor General promulgated pursuant to Section 11.45, *Florida Statutes*. The Auditor General has issued *Rules of the Auditor General, Chapter 10.550 - Local Governmental Entity Audits* and has adopted the auditing standards set forth in the publication entitled *Government Auditing Standards* (2011 Revision) as standards for auditing local governmental entities pursuant to Florida law.

²³ *Management’s Discussion and Analysis; City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, page 4.

²⁴ *Id.*

²⁵ *Id.*, page 7.

²⁶ *Id.*, page 4.

²⁷ *Id.*, page 11.

²⁸ *Id.*, page 4.

²⁹ *Id.*

³⁰ *Statement of Revenues, Expenditures and Changes in Fund Balances; City of Melbourne Comprehensive Annual Financial Report for the Year Ended September 30, 2017*, pages 21-22.

	<u>Melbourne CRA</u>	<u>Olde Eau Gallie CRA</u>
Total Revenue	\$ 1,119,598	\$ 347,133
Total Expenditures	<u>956,243</u>	<u>161,211</u>
Excess (Deficiency) of Revenues Over (Under) Expenditures	163,355	185,922
Other Financing Sources (Uses)	<u>(32,270)</u>	<u>(20,135)</u>
Change in Fund Balance	131,085	165,787
Fund Balance, Beginning	<u>209,914</u>	<u>217,417</u>
Fund Balance, Ending	<u>\$ 340,999</u>	<u>\$ 383,204</u>

Other Considerations

The Auditor General, if directed by the Committee, will conduct an operational audit as defined in Section 11.45(1)(g), *Florida Statutes*, and take steps to avoid duplicating the work efforts of other audits being performed of the City's operations, such as the annual financial audit. The primary focus of a financial audit is to examine the financial statements in order to provide reasonable assurance about whether they are fairly presented in all material respects. The focus of an operational audit is to evaluate management's performance in establishing and maintaining internal controls and administering assigned responsibilities in accordance with laws, rules, regulations, contracts, grant agreements, and other guidelines. Also, in accordance with Section 11.45 (2)(j), *Florida Statutes*, the Auditor General will be required to conduct an 18-month follow-up audit to determine the City's progress in addressing the findings and recommendations contained within the previous audit report.

The Auditor General has no enforcement authority. If fraud is suspected, the Auditor General may be required by professional standards to report it to those charged with the City's governance and also to appropriate law enforcement authorities. Audit reports released by the Auditor General are routinely filed with law enforcement authorities. Implementation of corrective action to address any audit findings is the responsibility of the City's governing board and management, as well as the citizens living within the boundaries of the City. Alternately, any audit findings that are not corrected after three successive audits are required to be reported to the Committee by the Auditor General, and a process is provided in Section 218.39(8), *Florida Statutes*, for the Committee's involvement. First, the City may be required to provide a written statement explaining why corrective action has not been taken and to provide details of any corrective action that is anticipated. If the statement is not determined to be sufficient, the Committee may request the Chair of the City Council to appear before the Committee. Ultimately, if it is determined that there is no justifiable reason for not taking corrective action, the Committee may direct the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to the City until the City complies with the law.

III. Effect of Proposed Request and Committee Staff Recommendation

If the Committee directs the Auditor General to perform a targeted operational audit of issues relating to the City of Melbourne as addressed herein, the Auditor General, pursuant to the authority provided in Section 11.45(3), *Florida Statutes*, shall finalize the scope of the audit during the course of the audit, providing that the audit-related concerns of Representative Fine as included in his request letter and herein are considered.

IV. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If the Committee directs the audit, the Auditor General will absorb the audit costs within her approved operating budget.

V. Related Issues:

None.

This staff analysis does not reflect the intent or official position of the requestor.
--

2 Citrus County Hospital Bd.
Audit Request: Rep. Massullo



Florida House of Representatives

Representative Ralph Massullo, MD

District 34

District Office:
4067 N Lecanto Hwy,
Beverly Hills, FL 34465
(352) 527-4510

Tallahassee Office:
1301 The Capitol
402 South Monroe Street
Tallahassee, FL 32399
(850) 717-5034

Senator Jeff Brandes, Chairman
Joint Legislative Audit Committee
876 Claude Pepper Building
111 W Madison Street
Tallahassee, FL 32399

December 3, 2018

Chairman Brandes,

Please let this letter serve as my request for consideration of an Operational Audit by the JLAC of the Citrus County Hospital Board. This request comes after an official letter of request for the audit from the Citrus County Board of County Commission dated April 17, 2018. In my opinion, an Operational Audit would help bring the operations of the board into the Sunshine and ease the many concerns of constituents and local government officials. Majority Leader Simpson and I have discussed on several occasions this matter and look forward to discussing this further with you during the upcoming committee week. During our last conversations, he also was in favor of proceeding with this audit request.

We both look forward to seeing you in the not too distant future.

Have a wonderful rest of the week.

Respectfully,


Ralph Massullo, MD
REM/ah

cc: Wilton Simpson, Senate Majority Leader

Committees:

Health & Human Services Committee - Health Quality Subcommittee – Tourism & Gaming
Natural Resources & Public Lands Subcommittee – PreK-12 Innovation Subcommittee

STAFF ANALYSIS

Date: February 5, 2019

Subject: Request for an Operational Audit of the Citrus County Hospital Board

Analyst Coordinator

White DW

DuBose KD

I. Summary:

The Joint Legislative Auditing Committee (Committee) has received a request from Representative Ralph Massullo to have the Committee direct the Auditor General to conduct an operational audit of the Citrus County Hospital Board.

II. Present Situation:

Current Law

Joint Rule 4.5(2) provides that the Legislative Auditing Committee may receive requests for audits and reviews from legislators and any audit request, petition for audit, or other matter for investigation directed or referred to it pursuant to general law. The Committee may make any appropriate disposition of such requests or referrals and shall, within a reasonable time, report to the requesting party the disposition of any audit request.

Joint Rule 4.5(1) provides that the Legislative Auditing Committee may direct the Auditor General or the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an audit, review, or examination of any entity or record described in Section 11.45(2) or (3), *Florida Statutes*.

Section 11.45(3)(a), *Florida Statutes*, provides that the Auditor General may, pursuant to his or her own authority, or at the discretion of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of the accounts and records of any governmental entity created or established by law.

Section 11.45(2)(j), *Florida Statutes*, provides, in part, that the Auditor General shall conduct a follow-up to his or her audit report on a local governmental entity no later than 18 months after the release of the audit report to determine the local governmental entity's progress in addressing the findings and recommendations contained in the previous audit report.

Request for an Audit of the Citrus County Hospital Board

Representative Massullo has requested the Committee to direct an operational audit of the Citrus County Hospital Board. He stated that, "[t]his request comes after an official letter of request for the audit from the Citrus County Board of County Commission" and in his opinion "an Operational Audit would help bring the operations of the board into the Sunshine and ease the many concerns of constituents and local government officials."

Background

Citrus County Hospital Board

The Citrus County Hospital Board (Board) is an independent special district created by Chapter 25728, *Laws of Florida*, in 1949.¹ Originally, the Board's purpose was to acquire, build, construct, maintain, and operate a public hospital in Citrus County.² In 1965, the Legislature expanded its purpose to include operating public hospitals, medical nursing homes, and convalescent homes in Citrus County.³ Chapter 2011-256, *Laws of Florida*, codified all prior special acts related to the Board. Chapter 2014-254, *Laws of Florida*, authorized the Board to enter into contracts or leases with for-profit Florida corporations and eliminated the Board's authority to levy ad valorem taxes. The Board is created as a public nonprofit corporation without stock and is governed by five trustees who are each appointed to a four-year term by the Governor, subject to approval and confirmation by the Senate.⁴ The trustees elect a Chair, a Vice Chair, and a Secretary-Treasurer on an annual basis.⁵

Citrus Memorial Health Foundation, Inc.

In 1987, the Board created a foundation which was subsequently renamed as the Citrus Memorial Health Foundation, Inc. (Foundation).⁶ The purpose of the Foundation, a nonprofit corporation, was to carry out the responsibilities of the special act creating the Board.⁷ The Board entered into a lease agreement and an agreement for hospital care with the Foundation, beginning in 1990 and ending in 2014. During this period, the Foundation did business as the Citrus Memorial Health System and offered the following services: 198-bed in-patient hospital, 24-hour emergency room, laboratory and diagnostic services, walk-in clinic, home health agency, rehabilitation services, heart center, and orthopedic services.⁸ For several years prior to the end of the agreements, the hospital had been operating at a loss.⁹ Other difficulties included: (1) both the Board and the Foundation filed various lawsuits against each other, alleging claims including breach of contract and public records violations, and (2) the hospital defaulted on a \$5.6 million bank loan that was scheduled to be foreclosed on in 2014.¹⁰ As a result, the Board and the Foundation decided to lease or sell the hospital to an outside management team.¹¹

Hospital Corporation of America (HCA) Lease

On November 1, 2014, the Board entered into a long-term lease with HCA¹² for hospital operations.¹³ At that time, the lease between the Foundation and the Board terminated.¹⁴ The initial term of the lease

¹ Auditor General Report Number 2010-093, *Citrus County Hospital Board & Citrus Memorial Health Foundation, Inc. - Operational Audit*, page 2.

² Page 1 of Chapter 2011-256, *Laws of Florida*.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Auditor General Report Number 2010-093, *Citrus County Hospital Board & Citrus Memorial Health Foundation, Inc. - Operational Audit*, page 2.

⁷ *Id.*

⁸ Auditor General Report Number 2010-093, *Citrus County Hospital Board & Citrus Memorial Health Foundation, Inc. - Operational Audit*, pages 2-3.

⁹ Florida House of Representatives Final Bill Analysis for CS/CS/HB 1445 (2014)

¹⁰ *Id.*

¹¹ *Id.*

¹² Specifically, the lease is with West Florida Division, Inc. (HCA-WFD), an affiliate of HCA Holdings, Inc.

¹³ Note 7. to the Financial Statements, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 31.

¹⁴ *Id.*

is 50 years with the option for HCA to renew for an additional 25 years. “The total consideration paid for the purchase of the personal property, the accounts receivable, all inventory, prepaid expenses, assumed contracts, permits and approvals by any governmental authorities, and other tangible and intangible assets as well as the prepaid rent for the lease of the real property totaled \$131,183,242. Of this amount, \$51,870,000 was received as consideration for prepaid rent for the term of the leased hospital.”¹⁵ In addition, pursuant to the terms of an escrow agreement, \$38,700,000 of the proceeds was to be held by an escrow agent as collateral to secure the Board and the Foundation’s continuing litigations, covenants, agreements and liabilities.¹⁶ Proceeds were also used to retire all debt of the Foundation, cover pension shortfalls, and pay other costs.¹⁷

Foundation Resolution Corporation

As part of the transaction to lease the hospital to HCA, the Board and the Foundation entered into a Global Allocation and Contribution Agreement (Agreement).¹⁸ Pursuant to the Agreement, the Foundation was required to: (1) take steps to begin dissolution, and (2) change its name to a name not similar to “Citrus Memorial Hospital” or “Citrus Memorial Health System.”¹⁹ The Foundation subsequently adopted a plan of liquidation and filed related documents with the State of Florida to begin winding down its remaining operations.²⁰ In addition, the Foundation changed its name to the Foundation Resolution Corporation (FRC).²¹ Records from the Florida Department of State indicate that FRC was voluntarily dissolved with notice on February 19, 2015.

Citrus County Charitable Foundation

Another requirement of the Agreement was the formation of the Citrus County Community Charitable Foundation, Inc. (Charitable Foundation) for the purpose of managing the final net proceeds from the hospital lease and ensuring that such funds are used only for the medically related needs of the citizens of Citrus County.²² Chapter 2014-254, *Laws of Florida*, amended the Board’s Charter to authorize the Board to create an irrevocable community trust or foundation to manage the proceeds of a lease of the hospital and its facilities to a private for-profit entity if such lease results in net proceeds that exceed existing debt associated with the hospital and its facilities for loans, notes, revenue bonds, or other bond obligations and a reasonable estimate of the Board’s administrative costs and costs to facilitate, manage, or enforce the lease and its covenants for the term of the lease.²³ Further, the law restricted the proceeds and any interest derived therefrom to be used by the irrevocable community trust or foundation only for the medically related needs of citizens and residents of Citrus County.

The primary purpose of the Charitable Foundation is to provide Citrus County residents with new or expanded medical and health services and to supplement existing community health services to increase overall community benefit(s).²⁴ In addition, its mission is to award grants to groups and organizations that establish programs, research, or initiatives that promote the health or satisfy the medical needs of

¹⁵ *Id.*

¹⁶ Note 10. to the Financial Statements, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 32.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*, pages 32 and 33.

²⁰ *Id.*, page 32.

²¹ *Id.*, page 33.

²² *Id.*, page 32.

²³ Section 5.

²⁴ Article IV of the *Articles of Incorporation of Citrus County Charitable Foundation, Inc.*, page 2.

Citrus County residents.²⁵ It is reported that the Charitable Foundation is authorized to spend 80 percent of the interest earned on the net proceeds from the HCA lease.²⁶ The Charitable Foundation's bylaws provide for an 11-member Board of Directors as follows:

- Two individuals elected on a nonpartisan, countywide basis by registered voters residing in Citrus County;
- One member of the Citrus County Hospital Board;
- One member each of the Citrus County Board of County Commissioners, City Council of the City of Inverness, and City Council of the City of Crystal River;
- The Citrus County Health Department's Public Health Officer;
- The Vice President (or alternate as specified) of the Citrus County Campus of the College of Central Florida;
- The Chief of Medical Staff of Seven Rivers Hospital and Citrus Memorial Hospital (or alternate as specified), on a rotational basis;
- The President of the Citrus County Medical Society (or alternate as specified); and,
- The President of the Florida Well-Care Alliance.²⁷

Current Activities of Board

In recent years, since the lease with HCA, the Board has transitioned from providing financial support to the Citrus Memorial Hospital in serving eligible indigent patients to: (1) assisting FRC in winding down its affairs, and (2) fulfilling the Board's and FRC's financial obligations relating to the Agreement relating to the HCA lease.²⁸

During the 2016-17 fiscal year, the Board assisted the FRC in various legal actions and issues²⁹ which required legal fees totaling \$1,155,250.³⁰ Financial reports available on the Board's website indicate that legal fees were \$957,955 for the 2017-18 fiscal year and \$191,997 for October through December 2018. In addition, these financial reports indicate that expenditures for legal services and personnel comprise approximately 93.8% and 86% of total expenditures for the 2017-18 fiscal year and October through December 2018, respectively. These percentages of total expenditures are to be expected based on the Board's activities subsequent to the above-noted lease.

Recent Concerns, Events, and Other Information

Concerns

In April 2018, the Citrus County Board of County Commissioners (BCC) sent a letter to Representative Massullo and Senator Wilton Simpson, which stated the BCC had unanimously voted that the "State Representatives request the Joint Legislative Auditing Committee...audit/review the expenditures of the Foundation Resolution Corporation and the Citrus County Hospital Board." Committee staff contacted Representative Massullo's office to discuss the specific areas of concern.

²⁵ Citrus County Community Charitable Foundation, Inc. website (1/31/2019).

²⁶ Mike Wright, *Wooten enlists county's help against hospital board*, www.chronicleonline.com, February 27, 2018.

²⁷ *Amended and Restated Bylaws of Citrus County Community Charitable Foundation, Inc.*

²⁸ Management Discussion and Analysis, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 8.

²⁹ These legal actions and issues included FRC indemnity issues relating to claims from government and private healthcare agencies and related issues, FRC pension plan assets administration, and FRC patient lawsuit settlements.

³⁰ Management Discussion and Analysis, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 8.

There have been various news articles regarding the Board's expenditures for legal services and the salary of the Board's attorney:

- The Board kept \$8 million for administrative expenses and potential litigation that could arise from the prior nonprofit hospital (FRC).³¹
- The Citrus County Chamber of Commerce President and CEO, who is also a former County commissioner, expressed his concerns that: (1) the Hospital spent \$800,000 last year on outside legal counsel, along with the Board's attorney drawing a salary as an employee,³² and (2) the Board is going to sue and litigate until the \$8 million is gone. He further stated that the "Clerk of Courts...should oversee the money and the county commission can dole it out to the charitable foundation as it becomes available."³³
- A County Commissioner expressed concerns that the Board and the Charitable Foundation are moving in opposite directions.³⁴
- In April 2018, Board officials gave a presentation, to the County Commission, about their role in overseeing the HCA lease and the \$127 million associated with the agreement:³⁵
 - They stated that most of the money has been spent paying off previous Hospital debt.
 - The Board's attorney stated that he welcomed the state auditors and that much of the legal fees incurred "...resulted in winning cases, insurance battles, and Medicaid disputes, which have garnered the hospital board millions of dollars on behalf of the public."³⁶
- The Board's attorney stated in May 2018 that "it's money well invested. If we have to spend hundreds of thousands of dollars in legal fees to (recoup) millions of dollars for the charity, then...the Foundation Resolution Corp. and the Citrus County Hospital Board are committed to doing so...It's in the public's interest."³⁷

Events and Other Information

- The Board is involved in legal battle with the Agency for Health Care Administration (AHCA) over Medicaid reimbursements³⁸
 - AHCA claims it overpaid the Hospital an estimated \$5.89 million in Medicaid payments between 2006 and 2016.
 - During past year, AHCA withheld approximately \$1.78 million in new Medicaid payments to the Hospital to start making up amount overpaid.
 - The Board had to step in and reimburse HCA for this loss because, when it leased the Hospital to HCA in 2014, the deal included the Board setting aside millions in escrow in case there were any payment disputes relating to prior years.
 - The Board has the right to fight such legal cases on behalf of the Hospital.

³¹ Mike Wright, *Wooten enlists county's help against hospital board*, www.chronicleonline.com, February 27, 2018.

³² A flat salary of \$5,000 per month plus benefits (Fred Hiers, *County Commissioners ask state to review hospital board books*, www.chronicleonline.com, April 11, 2018).

³³ Mike Wright, *Wooten enlists county's help against hospital board*, www.chronicleonline.com, February 27, 2018.

³⁴ *Id.*

³⁵ Fred Hiers, *County Commissioners ask state to review hospital board books*, www.chronicleonline.com, April 11, 2018.

³⁶ *Id.*

³⁷ Fred Hiers, *Hospital board moves closer to recouping millions owed to Citrus Memorial Hospital*, www.chronicleonline.com, May 31, 2018.

³⁸ *Id.*

- The Board's attorney claims that AHCA's argument that it overpaid the Hospital is not accurate because it is based on inaccurate billing records submitted by Hospital management during those years.
- A letter dated February 1, 2019, was received from the Citrus County Chamber of Commerce (Chamber), expressing the support of the Chamber's Board of Directors for the requested audit of the Board.

Financial Audit

The Board has obtained annual financial audits of its accounts and records by an independent certified public accountant (CPA) and has submitted the audit reports to the Auditor General's Office in accordance with Section 218.39(1), *Florida Statutes*.³⁹ The most recent financial audit report submitted to the Auditor General is for the 2016-17 fiscal year and did not include any audit findings.

Summary of Certain Financial Information Included in the Board's Audit Report:

- The assets of the Board exceeded its liabilities at the close of the fiscal year ended September 30, 2017 by \$5,598,310, a decrease of \$3,244,177 in net position from the prior year.⁴⁰
- The primary revenue during the year was lease income from HCA for the Hospital in the amount of \$1,037,400.⁴¹
- The only liability for debt is the Board's proportionate share of the Florida Retirement System net pension liability of \$125,729 at the fiscal year-end.⁴²
- During the year, the Board assisted the Foundation Resolution Corporation (FRC) in legal and regulatory matters relating to the period in which FRC operated the Hospital.⁴³ These issues included the Agency for Health Care Administration's claim that the Hospital had been paid \$5.89 million in excess ineligible Medicaid payments as well as having filed erroneous Medicare Cost Reports and other health care related program payments.⁴⁴ Legal fees for the fiscal year totaled \$1,155,250.⁴⁵
- The Board provided \$4,183,983 to the Citrus County Community Charitable Foundation during the fiscal year.⁴⁶

Operational Audits

In 2009, the Committee directed the Auditor General to perform an operational audit of the Board and the Foundation. The initial report was issued in February 2010. As required by law, a subsequent follow-up report was issued to determine the Board's and the Foundation's progress in addressing the 11 audit

³⁹ Pursuant to Section 218.39(7), *Florida Statutes*, these audits are required to be conducted in accordance with rules of the Auditor General promulgated pursuant to Section 11.45, Florida Statutes. The Auditor General has issued *Rules of the Auditor General, Chapter 10.550 - Local Governmental Entity Audits* and has adopted the auditing standards set forth in the publication entitled *Government Auditing Standards* (2011 Revision) as standards for auditing local governmental entities pursuant to Florida law.

⁴⁰ Management Discussion and Analysis, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 6.

⁴¹ *Id.*, page 7.

⁴² *Id.*

⁴³ Note 9. to the Financial Statements, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 32.

⁴⁴ *Id.*

⁴⁵ Management Discussion and Analysis, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 8.

⁴⁶ Government-wide Financial Statements - Statement of Activities, *Citrus County Hospital Board Annual Financial Statements for the Fiscal Year Ended September 30, 2017*, page 10.

findings.⁴⁷ Many of the findings had been corrected; however, three of the Board's findings had only been partially corrected. These findings related to the Board's oversight of the Foundation, debt management, and construction projects. Once the Hospital's management transitioned from the Foundation to HCA and the Board's responsibilities shifted, these findings were no longer relevant.

The most recent codification of the Board's special laws, Chapter 2011-256, *Laws of Florida*, included a provision that required the Board to submit a request to the Committee for an operational audit of the Board and the not-for-profit corporation (at the time, this was the Foundation) to be conducted by the Auditor General. The Board was required to include specific areas to be addressed in the audit, including, but not limited to, a review of internal controls over financial related operation. The audit request was required to be submitted in 2014, three years after the effective date of the act. No such request was ever received by the Committee.

Other Considerations

The Auditor General, if directed by the Committee, will conduct an operational audit as defined in Section 11.45(1)(g), *Florida Statutes*, and take steps to avoid duplicating the work efforts of other audits being performed of the District's operations, such as the annual financial audit. The primary focus of a financial audit is to examine the financial statements in order to provide reasonable assurance about whether they are fairly presented in all material respects. The focus of an operational audit is to evaluate management's performance in establishing and maintaining internal controls and administering assigned responsibilities in accordance with laws, rules, regulations, contracts, grant agreements, and other guidelines. Also, in accordance with Section 11.45 (2)(j), *Florida Statutes*, the Auditor General will be required to conduct an 18-month follow-up audit to determine the Board's progress in addressing the findings and recommendations contained within the previous audit report.

The Auditor General has no enforcement authority. If fraud is suspected, the Auditor General may be required by professional standards to report it to those charged with the Board's governance and also to appropriate law enforcement authorities. Audit reports released by the Auditor General are routinely filed with law enforcement authorities. Implementation of corrective action to address any audit findings is the responsibility of the Board's governing board and management, as well as the citizens living within the boundaries of the District. Alternately, any audit findings that are not corrected after three successive audits are required to be reported to the Committee by the Auditor General, and a process is provided in Section 218.39(8), *Florida Statutes*, for the Committee's involvement. First, the Board may be required to provide a written statement explaining why corrective action has not been taken and to provide details of any corrective action that is anticipated. If the statement is not determined to be sufficient, the Committee may request the Chair of the Board to appear before the Committee. Ultimately, if it is determined that there is no justifiable reason for not taking corrective action, the Committee may direct the Department of Economic Opportunity to declare the Board inactive or to proceed with legal enforcement.

III. Effect of Proposed Request and Committee Staff Recommendation

If the Committee directs the Auditor General to perform an operational audit of the Citrus County Hospital Board, the Auditor General, pursuant to the authority provided in Section 11.45(3), *Florida*

⁴⁷ Original report: *Citrus County Hospital Board & Citrus Memorial Health Foundation, Inc. – Operational Audit*, Report No. 2010-093 (February 2010). Follow-up report: Letter addressed to Representative Debbie Mayfield, Chair, Joint Legislative Auditing Committee, dated September 27, 2012.

Statutes, shall finalize the scope of the audit during the course of the audit, providing that the audit-related concerns of Representative Massullo are addressed.

IV. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

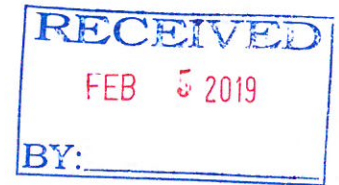
C. Government Sector Impact:

If the Committee directs the audit, the Auditor General will absorb the audit costs within her approved operating budget.

V. Related Issues:

None.

This staff analysis does not reflect the intent or official position of the requestor.
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February 1, 2019

Joint Legislative Auditing Committee
c/o Sen. Jeff Brandes and Rep. Jason Fischer, Alternating Chairs
111 W. Madison Street
Tallahassee, FL 32399-1400

Dear Committee Members,

We are pleased to see that the consideration for a request for an Auditor General operational audit of the Citrus County Hospital Board has been placed on your agenda for February 7.

The Board of Directors of the Citrus County Chamber of Commerce strongly urges you to grant this request. The taxpayers of Citrus County want -- and deserve -- accountability regarding the Citrus County Hospital Board and the expenditures of proceeds from the lease of our public hospital, Citrus Memorial, to HCA.

Thank you for your consideration.

Sincerely,



Josh Wooten, President / CEO



John Murphy, Chair, Governmental Affairs Committee

CC: Citrus County Board of County Commissioners
Senator Wilton Simpson
Representative Ralph Massullo

City of Starke
Operational Audits Performed by the Auditor General

Timeline

- April 2013: Joint Legislative Auditing Committee directs the Auditor General to perform an operational audit of the City of Starke. Representative Van Zant requested the audit based on concerns raised by citizens.
- August 2014: Initial audit report issued ([Report No. 2015-009](#))
- July 2018: Follow-up audit report issued ([Report No. 2019-003](#))

Finding Number	Audit Findings Reported in 2014	Status in 2018
1	Contrary to the Code of Ordinances, the City Commission did not employ a City Manager, resulting in those job responsibilities being performed by other personnel, some of which were incompatible and could have contributed to other deficiencies.	Corrected
2	The City had not provided for an adequate separation of duties, or established adequate compensating controls in several areas of its business functions.	Partially Corrected
3	The City had not established written policies and procedures necessary to assure the efficient and consistent conduct of accounting and other business-related functions and the proper safeguarding of assets.	Partially Corrected
4	Minutes of City workshop meetings were not timely reviewed and approved.	Partially Corrected
5	The City's petty cash and change funds were not adequately safeguarded and accounted for, and the City did not always document the public purposes served by petty cash expenditures.	Corrected
6	The City maintained an excessive number of bank accounts, and bank account reconciliations were not adequately prepared.	Partially Corrected
7	Some banks used as depositories were not approved by the Commission, contrary to the City Charter; banking agreements and signature cards were not maintained for all banks and accounts; and payroll checks were only signed by the City Clerk, contrary to the City Charter.	Partially Corrected
8	The City had not developed written procedures for Electronic Fund Transfers (EFT), contrary to law, and the City's EFT agreement with the financial institution from which EFTs were made did not sufficiently limit EFTs or address all bank accounts used for EFTs.	Partially Corrected
9	Certain cash collections were not recorded at the initial point of collection, and checks were not restrictively endorsed immediately upon receipt.	Partially Corrected
10	The City did not actively pursue collection of delinquent business tax receipts or enforce late payment penalties.	Not Corrected
11	The City did not periodically reconcile its utility deposits subsidiary ledger, general ledger, and bank account balance.	Not Corrected
12	The City procedures for preparing and reviewing quarterly electricity billing true-up calculations needed improvement.	Corrected
13	The City did not always follow its procedures for determining uncollected utility accounts, disconnecting services, and granting refunds to customers for unexpended deposits related to water and sewer extensions. City also did not have documented procedures for reviewing, calculating, and approving utility account adjustments.	Not Corrected
14	The City did not maintain detailed separate accountability for each of its utilities. Also, the City Commission did not, of record, address recommendations received from a contracted electric utility rate study and did not obtain a rate study for the gas utility system.	Not Corrected
15	The City Commission has not established a policy indicating minimum target levels of working capital funds to be maintained for the Enterprise Fund.	Partially Corrected
16	City budgets for two prior fiscal years were not prepared at the required level of detail, and did not consider the effect of available fund balances from prior fiscal years, contrary to law.	Corrected
17	The City's budget amendments were not advertised and approved in the manner required by law, and certain General Fund expenditure functions were overexpended for two prior fiscal years.	Partially Corrected
18	The City did not timely post required budget information and did not include a link to its annual financial reports on its Web site, contrary to State law.	Corrected

City of Starke
Operational Audits Performed by the Auditor General

Finding Number	Audit Findings Reported in 2014	Status in 2018
19	Salaries of elected City officials were not in accordance with applicable ordinances and the salary increases for elected officials were not properly authorized. Also, City records did not evidence the specific authority for, or public purpose of, providing safety pay bonuses to City employees other than firefighters.	Partially Corrected
20	City Commission had not, of record, approved position descriptions to be used as a basis for establishing minimum qualifications for candidates for employment, and the City did not document the authorization to hire two of ten new employees tested.	Partially Corrected
21	Contrary to the City's <i>Personnel Rules and Regulations Manual</i> , the City Commission had not adopted a classification plan and pay plan to specify job requirements and salary rates for authorized City positions.	Not Corrected
22	Contrary to the City's <i>Personnel Rules and Regulations Manual</i> , employee personnel evaluations were not completed, of record.	Corrected
23	The City's monitoring of employee overtime could be improved.	Not Corrected
24	The City Commission did not, of record, approve the issuance of credit cards for use by City employees and did not adopt guidance as to the assignment and proper use of City credit cards, and the City needed to enhance controls over the use of credit cards.	Partially Corrected
25	City records did not always evidence adequate supporting documentation for purchases and disbursements, including properly approved purchase orders, invoices detailing the cost of goods and services, and evidence that goods and services were received.	Not Corrected
26	The City did not require that invoices for auditing services be provided in sufficient detail to demonstrate compliance with the terms of the contract, and \$64,822 of noncontract auditing services were requested and provided without apparent authority. In addition, the City overpaid \$2,567 for auditing services.	Partially Corrected
26	The City did not authorize individual projects under its engineering services agreement in accordance with agreement terms and revised the arrangement for payments to be made on a retainer basis without entering into a revised agreement. Also, contrary to law, the agreement did not include a provision prohibiting contingent fees.	Not Corrected
28	The City did not, of record, enter into a signed and dated (executed) written agreement for legal services, and the City Commission did not timely approve a renewal agreement for such services.	Corrected
29	The City did not competitively select its health insurance provider, contrary to law, and did not competitively procure commercial property, liability, and automobile coverage, contrary to the City's Purchasing Policies and Bidding Procedures for purchases greater than \$15,000 and good business practices.	Corrected
30	City procedures for obtaining certain other professional services, and the review of related invoices, could be enhanced.	Not Corrected
31	The City had not established procedures to document the basis for classifying individuals as independent contractors rather than City employees, and the review disclosed four individuals the City classified as independent contractors that perhaps should have been more appropriately classified as employees based on Internal Revenue Service Guidelines.	Not Corrected
32	The City needed to enhance its written policies and procedures to ensure compliance with the Internal Revenue Code regarding the reporting of personal use of unmarked police vehicles in employees' gross compensation reported to the IRS.	Not Corrected
33	The City had not developed standardized procedures for documenting the preventative maintenance and periodic testing of diesel generators for the City's water and sewer system, contrary to Florida Department of Environmental Protection rules.	Not Corrected
34	The City did not timely reconcile the results of a prior fiscal year tangible personal property inventory to the property records.	Not Corrected
35	The City had not developed written policies and procedures governing the acquisition, assignment, control, use, and disposition of motor vehicles, and providing for the timely renewal of vehicle registrations.	Partially Corrected

Number of Findings Reported in 2014	35
Number of Findings <i>Corrected</i> by 2018	8
Number of Findings <i>Partially Corrected</i> by 2018	14
Number of Findings <i>Not Corrected</i> by 2018	13

CITY OF STARKE PRIOR AUDIT FOLLOW-UP

LEGISLATIVE AUDITING COMMITTEE
FEBRUARY 7, 2019



BACKGROUND

- ❖ This Committee directed us in April 2013 to conduct an operational audit of the City of Starke.
- ❖ We examined records and transactions from October 2010 through September 2013.
- ❖ In August 2014, we issued our operational audit report No. 2015-009 with 35 audit findings.

BACKGROUND

Operational audit means an audit whose purpose is to evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.

BACKGROUND

- ❖ In accordance with law, we performed a follow-up audit and issued our report No. 2019-003 in July 2018.
- ❖ In our follow-up audit, we examined records and transactions from October 2014 through February 2016, and selected City actions taken prior and subsequent thereto.

STATUS OF CITY OF STARKE AUDIT FINDINGS AS OF JULY 2018

Finding Category	Total	Corrected	Partially Corrected	Not Corrected
General Management Controls and Oversight	4	1	3	-
Petty Cash, Change Funds, and Bank Accounts	4	1	3	-
Collections, Receivables, and Utility Fees	7	1	2	4
Budgetary Controls	2	1	1	-
Transparency Requirements	1	1	-	-
Personnel and Payroll Administration	5	1	2	2
Procurement and Expenditures	2	-	1	1
Contractual Services	6	2	1	3
Vehicle Usage	1	-	-	1
Public Water System	1	-	-	1
Capital Assets	2	-	1	1
Total	35	8	14	13

HISTORY OF FOLLOW-UP AUDIT FINDINGS LAST 10 YEARS

Follow-Up Audit	Total Findings	Corrected	Partially Corrected	Not Corrected
City of Archer	14	5	7	2
Health Care District of Palm Beach County	4	1	2	1
Sunshine Water Control District	11*	4	3	2
City of Hampton	31*	3	21	4
Hardee County (various County agencies)	12*	8	2	-
Delray Beach Community Redevelopment Agency	19	10	5	4
Okaloosa County	21	13	5	3
City of Hollywood and CRA	13*	6	5	1
City of Lake Worth's Sub-Regional Sewer System	6	3	2	1
Islamorada, Village of Islands	16*	13	1	1
Citrus County Hospital Board & Citrus Memorial Health Foundation	11	7	4	-
Daytona Beach CRA	22	9	5	8
Flagler County Government Center Capital Project	11*	9	1	-
City of Riviera Beach and CRA	25*	3	14	6

*Total includes findings with no occasion to correct and those no longer relevant.

UNCORRECTED FINDING 10

UNCOLLECTED LOCAL BUSINESS TAXES

The City did not actively pursue collection of delinquent business tax receipts or enforce late payment penalties.

City Response: The City will implement written procedures to ensure compliance with the City Code and collection of revenues due to the City for business tax receipts.

UNCORRECTED FINDING II

UTILITY DEPOSITS

The City did not periodically reconcile its utility deposits subsidiary ledger, general ledger, and bank account balance.

City Response: The City will establish written procedures to ensure that customer deposit liability accounts are periodically reconciled to the customer deposits subsidiary ledger and the customer deposits bank account balance.

UNCORRECTED FINDING 13

UTILITY CUTOFF, ADJUSTMENTS, AND WATER AND SEWER EXTENSION COST PROCEDURES

The City did not always follow its procedures for determining uncollected utility accounts, disconnecting services, and granting refunds to customers for unexpended deposits related to water and sewer extensions. The City also did not have documented procedures for reviewing, calculating, and approving utility account adjustments.

UNCORRECTED FINDING 13 (CONTINUED)

City Response: The City has been working to enforce procedures for providing limited payment extensions and disconnecting utility services as required by City ordinance and resolution. The City will also develop written procedures for review and approval of utility adjustments and ensure that the City ordinance is followed for water and sewer extensions, including refunds of extension cost, if any. The City will take appropriate actions to recover amounts improperly credited and refund amounts overcharged.

UNCORRECTED FINDING 14

ENTERPRISE FUND FINANCIAL CONDITION

The City did not maintain detailed separate accountability for each of its utilities. In addition, the City Commission did not, of record, address recommendations received from a contracted electric utility rate study, and did not obtain a rate study for the gas utility system.

UNCORRECTED FINDING 14 (CONTINUED)

City Response: The City does account for fixed assets and long-term liabilities separately for each utility. The City will consider the rate-related recommendations from the electric system rate study and obtain a rate study for the gas utility.

UNCORRECTED FINDING 21

EMPLOYEE CLASSIFICATIONS AND PAY PLANS

Contrary to the *City's Personnel Rules and Regulations Manual*, the City Commission had not adopted a classification plan and pay plan to specify job requirements and salary rates for authorized City positions.

City Response: The City will adopt a classification plan and a pay plan to ensure that personnel administration and payroll costs are properly managed.

UNCORRECTED FINDING 23 OVERTIME PAYMENT MONITORING

The City's monitoring of employee overtime could be improved.

City Response: The City will perform overtime and staffing analyses to ensure the most cost efficient and effective use of human resources. The City will evaluate whether its practices are consistent with the Commission's intent and United States Department of Labor on-call guidelines and amend the Manual as necessary.

UNCORRECTED FINDING 25

PURCHASING AND DISBURSEMENT PROCESSING

City records did not always evidence adequate supporting documentation for purchases and disbursements, including properly approved purchase orders, invoices detailing the cost of goods and services, and evidence that goods and services were received.

UNCORRECTED FINDING 25 (CONTINUED)

City Response: City personnel will work to ensure that requisitions and purchase orders are used to document the approval of purchases, and that a competitive selection process be used, as required by the City's purchasing policies. The City will also ensure that all expenditures are supported by vendor invoices, documentation of receipt, and evidence of review and approval for accuracy and completeness prior to payment.

UNCORRECTED FINDING 27

ENGINEERING SERVICES

The City did not authorize individual projects under its engineering services agreement in accordance with agreement terms and revised the arrangement for payments to be made on a retainer basis without entering into a revised agreement. Also, contrary to law, the agreement did not include a provision prohibiting contingent fees.

UNCORRECTED FINDING 27 (CONTINUED)

City Response: The City will ensure that all authorized projects utilizing engineering services are in writing, with a mutually agreed upon scope of work, completion date, and fee amount. The City will also include the prohibition against contingent fees clause in its agreements for engineering services.

UNCORRECTED FINDING 30 OTHER PROFESSIONAL SERVICES

City procedures for obtaining certain other professional services, and the related review of invoices, could be enhanced.

City Response: The City will strengthen its procurement procedures for other professional services to require that contracts be properly approved and specify the duties to be performed and ensure that consultants submit invoices in sufficient detail to evidence the dates, number of hours worked, and specific services performed.

UNCORRECTED FINDING 3 | EMPLOYEE / INDEPENDENT CONTRACTOR STATUS

The City had not established procedures to document the basis for classifying individuals as independent contractors rather than City employees, and our review disclosed four individuals the City classified as independent contractors that perhaps should have been more appropriately classified as employees based on Internal Revenue Service guidelines.

UNCORRECTED FINDING 3 I

(CONTINUED)

City Response: The City will establish procedures to document the relevant facts and circumstances upon which workers are classified as independent contractors rather than employees. The City will consult with the IRS for assistance in determining whether certain individuals should be classified as employees rather than independent contractors, and if appropriate, amend payroll reporting and remit any required payroll taxes and retirement contributions for the employees to the appropriate Federal and State agencies.

UNCORRECTED FINDING 32 VEHICLE TAXABLE FRINGE BENEFIT

The City needed to enhance its written policies and procedures to ensure compliance with the Internal Revenue Code regarding the reporting of personal use of police vehicles in employees' gross compensation reported to the Internal Revenue Service.

City Response: The City will enhance its written policies and procedures to ensure compliance with applicable provisions of the Police Manual and Internal Revenue Code.

UNCORRECTED FINDING 33

DIESEL GENERATOR USAGE RECORDS

The City had not developed standardized procedures for documenting the preventative maintenance and periodic testing of diesel generators for the City's water and sewer system, contrary to Florida Department of Environmental Protection rules.

UNCORRECTED FINDING 33 (CONTINUED)

City Response: The City will enhance its procedures to ensure that diesel generator tests are conducted as required and that test and maintenance reports are timely and accurately prepared and maintained to evidence that proper preventative maintenance is performed and diesel generators are periodically tested at required intervals.

UNCORRECTED FINDING 34

TANGIBLE PERSONAL PROPERTY INVENTORY

The City did not timely reconcile the results of its 2011-12 fiscal year tangible personal property inventory to the property records.

City Response: The City will ensure that physical inventories of TPP are conducted annually and that the inventory results are promptly reconciled to the property records.

Contact Information



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FLAuditor.gov

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

Report No. 2019-003
July 2018

CITY OF STARKE

Prior Audit Follow Up



Sherrill F. Norman, CPA
Auditor General

City Commissioners, Chief of Police, City Clerk, and City Manager

During the period October 2014 through February 2016, Jeff Johnson served as Chief of Police, Ricky Thompson served as City Clerk, Tom Earnharth served as City Manager from 2-16-15,^a and the following individuals served as City of Starke Commissioners:

Daniel Nugent, Mayor from 10-20-15

Carolyn Spooner, Vice Mayor from 10-20-15, Mayor through 10-7-14

Travis Woods, Mayor 10-8-14, through 10-19-15

Tommy Chastain, Vice Mayor 10-8-14, through 10-19-15

Wilbur Waters, Vice Mayor through 10-7-14

^a City Manager position vacant 10-1-14, through 2-15-15.

The team leader was Jillian M. Litchfield, and the audit was supervised by Randy R. Arend, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at mikegomez@aud.state.fl.us or by telephone at (850) 412-2881.

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CITY OF STARKE

Prior Audit Follow Up

SUMMARY

This operational audit of the City of Starke (City) focused on the progress that the City had made, or was in the process of making, in addressing the findings and recommendations in our operational audit report No. 2015-009. Our audit disclosed that the City had corrected 8 findings (Nos. 1, 5, 12, 16, 18, 22, 28, and 29), partially corrected 14 findings (Nos. 2, 3, 4, 6, 7, 8, 9, 15, 17, 19, 20, 24, 26, and 35), and had not corrected 13 findings (Nos. 10, 11, 13, 14, 21, 23, 25, 27, 30, 31, 32, 33, and 34).

BACKGROUND

The City of Starke (City), located in Bradford County, is a Florida municipality originally incorporated as the Town of Starke in 1870 and then reincorporated as the City by the Florida Legislature through the enactment of Chapter 13426, Laws of Florida, 1927. The City operates under a Mayor-Commissioner form of government and is governed by an elected five-member City Commission. The five Commissioners annually elect one Commissioner to serve as Mayor and one to serve as Vice Mayor. The City also has an elected City Clerk and Chief of Police. The City provides law enforcement, fire control, electric, gas, water, sewer, and other general governmental services. The estimated population of the City was 5,442 in 2015 and 5,520 in 2017.¹

We conducted an operational audit of the City for the period October 2010 through September 2013, and selected actions taken prior and subsequent thereto, and issued our report No. 2015-009 in August 2014. In accordance with State law,² we performed follow-up procedures, as deemed necessary, to determine the City's progress in addressing the findings and recommendations contained within that report.

FINDINGS AND RECOMMENDATIONS

GENERAL MANAGEMENT CONTROLS AND OVERSIGHT

Finding 1: Organizational Structure

Previously Reported

Contrary to the Code of Ordinances (Code), the City Commission (Commission) did not employ a City Manager, resulting in those job responsibilities being performed by other personnel, some of which were incompatible and could have contributed to other deficiencies.

We recommended that the City hire individuals to fill employee positions in accordance with City ordinances or revise its ordinances to establish an organizational structure based on the intent of the

¹ *Florida Population Estimates for Counties and Municipalities*, April 2015 and April 2017, Florida Legislative Office of Economic and Demographic Research.

² Section 11.45(2)(j), Florida Statutes.

Commission. Should the Commission establish a new structure, it should ensure a proper separation of duties and assignment of responsibilities and accountability.

Results of Follow-Up Procedures

The City corrected this finding. Our examination of City records disclosed that, effective February 16, 2015, the City employed a City Manager to perform the City Manager responsibilities specified in the Code, which eliminated the incompatible duties previously performed by the City Clerk and Operations Manager.

Finding 2: Separation of Duties

Previously Reported

The City had not provided for an adequate separation of duties, or established adequate compensating controls, in several areas of its business functions.

We recommended that the City ensure that adequate compensating controls are implemented to help mitigate circumstances in which adequate separation of duties is not practical.

Results of Follow-Up Procedures

The City partially corrected this finding. Based on our examination of City records and discussions with City personnel, we determined that the City adopted policies and procedures, effective July 2015, for utility fee collections and implemented compensating controls over bank reconciliation and electronic funds transfer (EFT) processes to mitigate the inadequate separation of duties in these areas. However, as of May 2016, certain duties continued to be inadequately separated for the payroll function as one employee was responsible for recording in the accounting records payroll data from source documents, posting changes in rates of pay, adding new employees to the payroll system, and preparing payroll checks. Although the City Clerk reviewed the payroll checks for mathematical accuracy, improper changes could be made to payroll data or rates of pay without being timely detected. In response to our inquiries, City personnel indicated that the inadequately separated duties resulted from limited staff.

Recommendation: We recommend that the City continue efforts to implement adequate compensating controls, such as independent oversight and monitoring of payroll processing, to mitigate circumstances in which adequate separation of duties with existing employees is not practical.

Finding 3: Written Policies and Procedures

Previously Reported

The City had not established written policies and procedures necessary to assure the efficient and consistent conduct of accounting and other business-related functions and the proper safeguarding of assets.

We recommended that the Clerk provide procedural rules for purchasing to the Commission for its approval as required by the Code. We also recommended that the City establish comprehensive, written policies and procedures that are consistent with applicable laws and other guidelines. In doing so, we

recommended that the City ensure that the written policies and procedures address the instances of noncompliance and internal control deficiencies discussed in our report No. 2015-009.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records for the audit period disclosed that during the period April 2015 through June 2016 policies and procedures were adopted regarding revenues and cash receipts, cash management, credit cards and charge accounts, utility account adjustments, and capital assets. However, written policies and procedures were not developed to address other business-related functions, such as Commission minutes, budgets, and contract administration.

Additionally, the Code³ requires the City Clerk to establish, and submit for approval by the Commission, procedural rules for purchasing goods and services. Although the City had written purchasing policies and bidding procedures, the Commission had not approved the bidding procedures as of October 2017. According to the City Clerk, City personnel were establishing the various policies and procedures as time and resources were available and the policies and procedures will be presented to the Commission for approval when complete.

Notwithstanding the City's limited staff and resources, comprehensive, written policies and procedures are necessary to assist in training new employees and help prevent instances of noncompliance or inadequate internal controls, such as those discussed in this report.

Recommendation: We continue to recommend that the City continue efforts to establish comprehensive, written policies and procedures to assist in training new employees and help prevent instances of noncompliance and inadequate internal controls. In doing so, the City should ensure that the policies and procedures address the remaining areas of noncompliance and internal control deficiencies discussed in this report.

Finding 4: City Commission Minutes

Previously Reported

Minutes of City Commission workshop meetings were not timely reviewed and approved.

We recommended that the City develop guidelines for review and approval of Commission minutes, and enhance its procedures to ensure that minutes for all Commission meetings are recorded, approved, and available for public inspection.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records for the audit period and discussions with City personnel disclosed that the City did not have written policies or procedures providing guidelines for timely recording, reviewing, and approving Commission meeting minutes. Our examination of Commission meeting minutes for the audit period disclosed that the minutes were timely recorded and approved; however, the minutes were not always timely made available for public inspection. Commission meeting minutes for the 60 meetings held during the audit period were recorded

³ Section 2-326, City of Starke Code of Ordinances.

and approved by the Commission 7 to 64 days after the respective meetings. However, the meeting minutes for 17 meetings were not posted to the City Web site until May 26, 2016, subsequent to our inquiries, and the postings were 69 to 506 or an average of 276 days after the meeting dates. According to City personnel, the minutes were not timely posted to the Web site due to oversight and that appropriate posting procedures will be developed.

Recommendation: We continue to recommend that the City develop guidelines for review and approval of Commission minutes, and enhance procedures to ensure that minutes for all Commission meetings are timely made available for public inspection.

PETTY CASH, CHANGE FUNDS, AND BANK ACCOUNTS

Finding 5: Petty Cash and Change Funds

Previously Reported

The City's petty cash and change funds were not adequately safeguarded and accounted for, and the City did not always document the public purpose served by petty cash expenditures.

We recommended that the City establish procedures to ensure that all petty cash and change fund balances are recorded in the accounting records and periodically reconciled to amounts on hand. We also recommended that the City strengthen its procedures to require documentation that expenditures serve an authorized public purpose, are reasonable and necessary, and benefit the City. Such documentation should be present in the City's records prior to payment. Finally, we recommended that the City ensure the location, amount, and purpose of each petty cash and change fund is approved by the Commission.

Results of Follow-Up Procedures

The City corrected this finding. Our examination of City policies and procedures and Commission meeting minutes disclosed that the Commission adopted policies and procedures on June 16, 2015, specifying the locations, amounts, and purposes of each petty cash and change fund. The funds included:

- Two \$400 change funds for the City Hall cashiers.
- Two \$300 petty cash funds, one for City Hall emergency purchases and one for Police Department emergency purchases.
- \$200 in rolled coins for the cashiers' use when additional change was needed.

We also determined that the City maintained the petty cash and change funds in accordance with the adopted policies and procedures by performing a surprise count of the petty cash and change funds in May 2016. We compared our counts to amounts recorded in the accounting records and found no differences.

In addition, to determine whether petty cash and change fund disbursements were appropriate, we examined City records supporting 7 selected disbursements totaling \$1,138 of the 20 recorded disbursements during the period August 2015 through February 2016. We found that the

reimbursements were timely, served an authorized public purpose, were reasonable and necessary, and benefited the City.

Finding 6: Bank Accounts and Reconciliations

Previously Reported

The City maintained an excessive number of bank accounts, and bank account reconciliations were not adequately prepared.

We recommended that the City enhance its procedures to ensure accurate independent reconciliations of bank accounts to the general ledger including supervisory review and the date the reconciliations were completed. We also recommended the City continue efforts to reduce the number of bank accounts.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of 30 of the 153 bank account reconciliations for the months of October 2015 through February 2016 disclosed that City personnel timely prepared (within 1 month after the bank statement ending date) the reconciliations and the reconciliations contained evidence of supervisory review and approval.

In addition, our examination of City records disclosed that the number of City bank accounts was reduced in October 2017 from 44 to 29. However, the number of accounts maintained was still excessive as many of the 29 accounts had little or no activity during the audit period and, according to City personnel, the accounts were maintained mainly to provide separate accountability depending on the sources or uses of the moneys. Notwithstanding, separate accountability can be accomplished through use of source and use-specific accounting codes or subsidiary records. Maintaining an excessive number of bank accounts results in additional record keeping responsibilities and increases the risk that errors could occur and not be timely detected. In response to our inquiries in October 2017, City personnel indicated they were evaluating whether the Code required separate bank accounts for certain restricted funds and that the number of bank accounts would be reduced accordingly when the evaluation was completed.

Recommendation: We continue to recommend that the City reduce the number of bank accounts.

Finding 7: Banking Agreements and Signature Cards

Previously Reported

Some banks used as depositories were not approved by the Commission, contrary to the City Charter; banking agreements and signature cards were not maintained for all banks and accounts; and payroll checks were only signed by the City Clerk, contrary to the City Charter.

We recommended that the City maintain current banking agreements for all banks and signature cards for all bank accounts, ensure annual approval by the Commission of public depositories, and require that the City Clerk and Mayor sign all payroll warrants.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records disclosed that the Commission approved the City's use of public depositories at its March 3, 2015, Commission meeting in accordance with the City Charter. Our examination also disclosed that, in April 2016, current banking agreements and signature cards were available for all bank accounts. However, our observation of payroll warrants issued in October 2015 disclosed that the City Clerk and Mayor did not separately sign payroll warrants as the City Clerk manually stamped the warrants with a signature stamp for both the City Clerk and Mayor. Payroll warrants signed by the City Clerk and Mayor or an independent review and approval of the payroll warrant signing process would reduce the risk of fraud and errors associated with the process.

Recommendation: We continue to recommend that the City require the City Clerk and Mayor to each sign all payroll warrants or that the payroll warrant signing process be independently reviewed and approved.

Finding 8: Controls Over Electronic Funds Transfers

Previously Reported

The City had not developed written procedures for EFTs, contrary to law, and the City's EFT agreement with the financial institution from which EFTs were made did not sufficiently limit EFTs or address all bank accounts used for EFTs.

We recommended that the City establish written policies and procedures for authorizing and processing EFTs pursuant to State law. We also recommended that the City ensure its EFT agreement addresses all accounts from which EFTs are made, requires approval of a City employee other than the employee initiating the transfer, specifies the locations where City funds can be transferred, and specifies the dollar limits for transferred funds.

Results of Follow-Up Procedures

The City partially corrected this finding. On April 7, 2015, the Commission adopted policies and procedures for the authorization and processing of EFTs, as required by State law.⁴ Additionally, in May 2016, the City updated its written agreement with the financial institution from which EFTs were made to specify and authorize the accounts from which EFTs could be made and establish single EFT dollar limits, which were generally \$75,000 or \$125,000. However, the written agreement did not require documented, secondary approval of EFT authorizations or specify the destination accounts that can receive EFTs. In response to our inquiries, City personnel indicated that the EFT agreement lacked these provisions because of oversights.

Our examination of City records supporting the 32 EFTs totaling \$1.2 million during October 2015 did not disclose any EFTs for unauthorized purposes. However, without a written agreement requiring documented, secondary approval of EFT authorizations and specifying the destination accounts that can

⁴ Section 668.006, Florida Statutes, requires agencies to adopt control processes and procedures to ensure adequate integrity, security, confidentiality, and auditability of business transaction conducted using electronic commerce.

receive EFTs, the risk increases that unauthorized EFTs could occur without timely detection and appropriate resolution.

Recommendation: We continue to recommend that the EFT agreement be amended to require documented, secondary approval of EFT authorizations and specify the destination accounts that can receive EFTs.

COLLECTIONS, RECEIVABLES, AND UTILITY FUNDS

Finding 9: Cash Collections

Previously Reported

Certain cash collections were not recorded at the initial point of collection, and checks were not restrictively endorsed immediately upon receipt.

We recommended the City establish procedures that require the use of prenumbered receipts for payments made in person, all mail collections be recorded at the initial point of collection, and checks be restrictively endorsed immediately upon receipt.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records supporting the 53 daily cash summary reports for October 2015, which included 72 receipts (other than utility deposits) totaling \$41,681, disclosed that prenumbered receipts were used for payments made in person. However, although we requested, City records were not provided to evidence the use of mail logs, receipts, or other records to document the initial point of collection for City Hall and the Police Department mail collections. Additionally, according to City personnel, they did not restrictively endorse checks received in mail collections immediately upon receipt.

In response to our inquiries in October 2017, City personnel indicated that they were evaluating the collection procedures to implement appropriate controls. When collections are not documented at the initial point of receipt and checks are not restrictively endorsed immediately upon receipt, the risk increases that errors, fraud, or theft may occur without timely detection.

Recommendation: We continue to recommend that the City establish procedures that require all mail collections be recorded at the initial point of collection and checks restrictively endorsed immediately upon receipt.

Finding 10: Uncollected Local Business Taxes

Previously Reported

The City did not actively pursue collection of delinquent business tax receipts or enforce late payment penalties.

We recommended that the City implement procedures to ensure compliance with the Code and collection of revenues due to the City for business tax receipts.

Results of Follow-Up Procedures

The City did not correct this finding. The Code⁵ provides, with limited exceptions, that no person shall engage in, own or manage businesses, occupations, professions or services without first having properly applied for and obtained a local business tax receipt (i.e., business license), which range in cost from \$25 to \$1,500 depending on the type of occupation. The Code also provides that:

- Local business tax receipts be issued beginning August 1, and expire on September 30 of the next year. Local business tax receipts that are not renewed by September 30 are delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent for each subsequent month until paid, although the total delinquency penalty may not exceed 25 percent.⁶
- Any person who does not pay for the required local business tax receipt and obtain the receipt within 150 days after initial notice will be subject to additional actions and costs incurred as a result of collection efforts and a penalty of \$250.⁷

As part of our audit, we examined City records and identified 696 business tax receipts totaling \$62,192 that were issued for the 2015-16 fiscal year. We noted that local business taxes totaling \$4,501 for 80 businesses were due October 1, 2015, but had not been paid as of April 19, 2016. As of July 5, 2016, local business taxes totaling \$2,812 for 51 of these businesses still had not been paid. The late fees and penalties for the 2015-16 fiscal year totaled \$1,125 and \$20,000, respectively, for 80 licenses associated with payments that were 150 or more days past due.

According to City personnel, the City notified businesses of delinquent business taxes beginning in April 2016, but did not actively pursue the collection of the 25 percent delinquency penalty and did not enforce the \$250 penalty. However, the delinquent amount was added to the next year's annual renewal billing statement for the businesses. In response to our inquiries, City personnel indicated that they did not pursue collection of the penalties because they did not want to discourage businesses from operating in the City.

Prompt notifications to businesses with delinquent business tax receipts followed by the timely identification and referral for further collection efforts could reduce the amount of uncollectible business tax receipts and related penalties.

Recommendation: We continue to recommend that the City implement procedures to ensure compliance with the Code and collection of revenues due to the City for business tax receipts.

Finding 11: Utility Deposits

Previously Reported

The City did not periodically reconcile its utility deposits subsidiary ledger, general ledger, and bank account balance.

⁵ Section 26-31, City of Starke Code of Ordinances.

⁶ Section 26-37, City of Starke Code of Ordinances.

⁷ Section 26-38, City of Starke Code of Ordinances.

We recommended that the City implement procedures to ensure that customer deposit liability accounts are periodically reconciled to the customer deposits subsidiary ledger and the customer deposits bank account balance.

Results of Follow-Up Procedures

The City did not correct this finding. Our examination of City records disclosed that the City maintained a bank account for the residential and commercial utility deposits and recorded deposits as both cash and customer deposits payable in its accounting records. We also noted that the City maintained a customer deposits subsidiary ledger. However, City records and discussions with City personnel indicated that the City did not have procedures for periodically reconciling the customer deposits payable liability account to the customer deposits subsidiary ledger and to the residential and commercial utility deposits bank account balance. In response to our inquiries, City personnel indicated that the reconciliations were not performed because a limited number of staff were available to analyze the large number of transactions involved.

Our examination of District records for the period October 2015 through February 2016 disclosed that:

- According to the customer deposits subsidiary ledger, customer deposits increased by \$24,813, from \$890,455 to \$915,268.
- The customer deposits payable liability account in the general ledger increased by \$27,270, from \$890,455 to \$917,725.
- The residential and commercial utility deposits bank account balance increased by \$26,961, from \$960,476 to \$987,437.

While the amounts of these increases varied by less than \$2,500, without periodic reconciliations there is an increased risk that, should fraud or errors occur, the City may not promptly detect and resolve such occurrences.

Recommendation: We continue to recommend that the City implement procedures to ensure that customer deposits payable liability accounts are periodically reconciled to the customer deposits subsidiary ledger and the customer deposits bank account balance.

Finding 12: Electricity Billing True-Up Calculations

Previously Reported

City procedures for preparing and reviewing quarterly electricity billing true-up calculations needed improvement.

We recommended that the City enhance its true-up calculation and review procedures to ensure that errors are timely detected and corrected, and actual costs of producing electricity are correctly charged to customers.

Results of Follow-Up Procedures

The City corrected this finding. Our recalculations of the City's true-up worksheets for the 3-month period ended October 2015 indicated that the calculations were accurate and amounts used in the calculations agreed to the supporting documentation. The City's electricity costs for the 3-month period totaled \$1,366,617 and the electricity costs recovered through customer billings totaled \$1,282,735,

resulting in a shortage of \$83,882 to be recovered through a rate adjustment in customer billings over the next 3 months.

Finding 13: Utility Cutoff, Adjustment, and Water and Sewer Extension Cost Procedures

Previously Reported

The City did not always follow its procedures for determining uncollected utility accounts, disconnecting services, and granting refunds to customers for unexpended deposits related to water and sewer extensions. The City also did not have documented procedures for reviewing, calculating, and approving utility account adjustments.

We recommended that the City enforce its procedures for providing limited payment extensions and disconnecting electric service as required by City ordinance and resolution. We also recommended that the City ensure that all disconnection report records are retained and that a procedure is developed for tracking the number of payment extensions provided. In addition, we recommended that the City develop formal procedures for the review and approval of utility account adjustments, and ensure that the City ordinance is followed for water and sewer extensions, including refunds of extension costs, if any.

Results of Follow-Up Procedures

The City did not correct this finding. Our discussions with City personnel and examination of City records supporting utility disconnection, adjustment, and water and sewer extension cost procedures disclosed that procedures continued to need improvement.

Utility Disconnections. City resolutions⁸ provide that:

- Utility bills are to be mailed to customers on the 1st of the month.
- A customer shall be allowed to extend the time for payment of utility bills twice per calendar year for up to 7 days.
- Utilities are to be disconnected if bills are not paid by the 29th of the month.

According to City personnel, time extensions for unpaid bills may be authorized by the Finance Director based on customer extension requests and are authorized when paid by financial assistance grants.

Our examination of City records disclosed that, in March 2015, the City began tracking the number of extensions granted to utility customers. However, City personnel did not always comply with the resolution requirements by disconnecting utilities for accounts that remained delinquent after the 29th of the month. For example, the March 2, 2015, list of uncollected accounts disclosed 277 accounts (211 residential accounts and 66 commercial accounts) subject to disconnection. As of that date, 15 accounts were pending payment from a financial assistance grant and the City had disconnected the utilities for 17 other accounts. However, of the remaining 245 accounts:

- 66 customers paid their late fees by March 2, 2015, without utility disconnections.
- The Finance Director formally extended the due dates of 26 accounts based on customer extension requests.

⁸ Resolution No. 2014-26, superseded by Resolution No. 2016-08.

- 153 accounts were extended without a customer extension request, including:
 - 125 accounts (87 residential and 38 commercial) that were up to 13 days late.
 - 22 accounts (12 residential and 10 commercial) that were 40 days late, effectively granting each customer a second consecutive extension by default.
 - 6 accounts (5 residential and 1 commercial) that were 70 or more days late and, therefore, exceeded the maximum two allowable extensions per year.

In response to our inquiries, City personnel indicated that the manual process for monitoring payments and utility disconnections is labor intensive and that the City has limited staff and resources. Additionally, City personnel indicated and that utilities were not disconnected for some accounts because the amount owed was less than the customer deposit.

For collection efforts to be effective, such efforts must be both timely and progressively strengthened as accounts become more delinquent. Without effective efforts, such as appropriate payment arrangements or utility disconnections, there is an increased risk that account balances will continue to increase and not be collected.

Utility Account Adjustments. In March 2015, the City adopted procedures for the review and approval of customer utility account adjustments for certain occurrences, such as billing error corrections (e.g., incorrect meter readings), checks returned for insufficient funds, and increased water and sewer charges caused from water leaks. The procedures also require that all adjustments have supporting documentation and be signed to evidence approval by the City Clerk, City Manager, or Finance Director before the adjustment is made.

To determine whether the newly adopted procedures were being followed, we examined City records supporting the 17 adjustments to customer utility accounts, totaling \$1,860, made during the months of January and February 2016 and found that a \$960 adjustment lacked documentation evidencing the basis for the utility account adjustment and 5 adjustments, totaling \$248, lacked the signature of either the City Clerk, City Manager, or Finance Director to evidence approval of the adjustments, contrary to City procedures. In response to our inquiry, City personnel indicated that documentation for adjustments and necessary approval as evidenced by required signatures was not available due to oversights. Absent required documentation for adjustments and approvals, improper adjustments could be made and not timely detected and corrected.

Water and Sewer Extension Costs. City ordinances⁹ provide that a City water and sewer system extension or expansion project may be constructed by the City upon written request of the individual property owner, provided that such property owner:

- Deposits with the City the total estimated cost of such project.
- The service request is in the form of the written petition presented to the Commission.
- The parties desiring construction agree, in writing, to pay on demand any expenses actually incurred by the City in excess of the estimates.

The ordinances also provide that the City refund to contributing parties, in proportion to the contribution of each party, the portions of the deposits unexpended upon completion of the project.

⁹ Section 102-32, City of Starke Code of Ordinances.

Our discussions with City personnel and examination of Commission minutes and other City records disclosed for the one water line extension during the period October 2014 through February 2016 that:

- In August 2015, the Commission approved one water line extension to a customer's residence at an estimated cost of \$6,915. The customer entered into a payment agreement with the City to make monthly payments until the balance was paid in full for the cost of installing the water line extension. Because the water line could support five residential water lines, Commission minutes indicated that each additional water line would cost \$1,383, and the original customer would be reimbursed a pro rata share of \$6,915 as additional customers were connected.
- In May 2016, another customer connected to the water line. However, rather than assessing the customer one-fifth of the water line costs of \$1,383, the customer was assessed \$1,693, or an additional \$310, because the City incorrectly calculated the amount. The incorrect calculation resulted in a credit to the original customer's account of \$2,743 instead of \$1,383, or an additional \$1,360, composed of the additional \$310 incorrectly assessed and the \$1,050 connection fee paid by the new customer. Although the Commission approved the water line extension agreement, and City ordinances provide for refunding portions of unexpended deposits upon completion of a project, the Code does not provide for arrangements for constructing a water line extension and subsequently reimbursing a customer or crediting their account based on future connections.

In response to our inquiries, City management indicated that the calculation errors occurred because the calculations are complex and are made infrequently. Additionally, City personnel indicated that the City has historically entered into water line extension arrangements and that they were unaware that such arrangements were contrary to City ordinances. As of October 2017, the City had not attempted to recover the \$1,360 improperly credited to the customer's account or to refund the \$310 improperly assessed to the other customer.

Recommendation: We continue to recommend that the City enforce procedures for providing limited payment extensions and disconnecting utility services as required by City ordinances and resolution. The City should also ensure that procedures for the review and approval of utility account adjustments are followed and that the City ordinance is followed for water and sewer extensions, including proper refunds of extension costs, if any. In addition, the City should take appropriate actions to recover the \$1,360 improperly credited and refund the \$310 overcharged.

Finding 14: Enterprise Fund Financial Condition

Previously Reported

The City did not maintain detailed separate accountability for each of its utilities. In addition, the City Commission did not, of record, address recommendations received from a contracted electric utility rate study and did not obtain a rate study for the gas utility system.

We recommended that the City maintain separate accountability for each utility in its accounting records, consider implementing the rate-related recommendations from the electric system rate study, and obtain a rate study for its gas utility.

Results of Follow-Up Procedures

The City did not correct this finding. Our discussions with City personnel and examination of City records as of October 2017 disclosed that the revenues and expenses of each electric, gas, water, and sewer utility activity were separately accounted for and reported in the City's government-wide statement

of activities for the 2012-13 through 2015-16 fiscal years. The utility systems operating activity for the 2013-14 through 2015-16 fiscal years is summarized in Table 1.

Table 1
City of Starke Enterprise Fund Operating and Net Income
For the 2013-14, 2014-15, and 2015-16 Fiscal Years
(In Thousands)

	2013-14	2014-15	2015-16
Operating Revenues	\$ 11,200	\$ 11,300	\$ 11,400
Operating Expenses	(10,500)	(10,300)	(10,600)
Total Operating Income	\$ 700	\$ 1,000	\$ 800
Net Nonoperating Expenses, Transfers, and Capital Grants	(600)	2,300	(500)
Net Income	\$ 100	\$ 3,300	\$ 300

Source: City's Audited Financial Reports.

Notwithstanding, the City reported utility activities in a single enterprise fund and did not separately account for each utility's assets, liabilities, and net position in its accounting records. In addition, while the City utility systems reported net income for the 2013-14 through 2015-16 fiscal years, the City did not implement the rate-related recommendations from the July 2012 electric system rate study and did not obtain a rate study for the gas utility.

In response to our inquiries, City personnel indicated that the rate recommendations were not implemented because the City increased water and sewer rates and did not want to overburden customers by also increasing the electric rate. Additionally, the City did not obtain a gas utility study because of limited staff and resources necessary to gather the data needed for the study.

Maintaining separate accountability of the assets, liabilities, and net position for each utility in the accounting records would enhance the City's ability to determine the extent to which fees and charges are sufficient to cover the cost of providing utility services, including future capital replacement costs, and would assist in rate setting each fiscal year to ensure that each activity's inflows are sufficient to cover outflows. Additionally, when utility rates are not timely and thoroughly reviewed and revised, the City may not have sufficient revenues in future fiscal years to pay expenses and maintain required reserves.

Recommendation: We continue to recommend that the City maintain separate accountability of the assets, liabilities, and net position for each utility in the accounting records, consider implementing the rate-related recommendations from the electric system rate study, and obtain a rate study for the gas utility.

Finding 15: Enterprise Fund Working Capital

Previously Reported

The City Commission has not established a policy indicating minimum target levels of working capital funds to be maintained for the Enterprise Fund.

We recommended that the Commission, by formal resolution, establish a policy indicating minimum target levels of working capital funds that should be maintained for its Enterprise Fund and continue efforts to increase working capital on hand.

Results of Follow-Up Procedures

The City partially corrected this finding. Our discussions with City personnel and examination of City records indicated that, for the 2015-16 fiscal year, the Enterprise Fund working capital increased to \$4,583,349, or \$3,333,222 more than the 45 days of expenses recommended by the Government Finance Officers Association (GFOA) best practices.¹⁰ The majority of the increase in working capital was from a one-time land sale for \$1,929,635 in the 2014-15 fiscal year. However, the City did not, by formal resolution, establish a policy with minimum target levels of working capital funds to be maintained for its Enterprise Fund, as recommended by GFOA. In response to our inquiries, City personnel indicated that a policy had not been established due to an oversight.

Establishing minimum working capital requirements would help ensure that the City has sufficient fees to operate the fund, assist in determining appropriate utility services rates, and provide a basis for determining available funds that may be used for other lawful City purposes.

Recommendation: We continue to recommend that the City, by formal resolution, establish a policy with the minimum target levels of working capital funds that should be maintained for the Enterprise Fund.

BUDGETARY CONTROLS

Finding 16: Budget Preparation

Previously Reported

The City's 2011-12 and 2012-13 fiscal years' budgets were not prepared at the required level of detail, and did not consider the effect of available fund balances from prior fiscal years, contrary to law.

We recommended that the City ensure that future annual budgets are adopted at the proper level of detail and include all balances brought forward from prior fiscal years.

Results of Follow-Up Procedures

The City corrected this finding. Our examination of City records indicated that the approved budgets for the 2014-15 and 2015-16 fiscal years presented budgeted revenues and expenditures for each fund by organizational unit at the required level of detail and included balances brought forward from the prior fiscal year.

¹⁰ GFOA Government Finance Officers Association Best Practice, *Working Capital Targets for Enterprise Funds*.

Finding 17: Budget Amendments

Previously Reported

The City's budget amendments were not advertised and approved in the manner required by law, and certain General Fund expenditure functions were overexpended for the 2010-11 and 2012-13 fiscal years.

We recommended that the City ensure that budget amendments are approved through resolution when needed, but no later than 60 days following the end of the fiscal year, to ensure that expenditures are limited to budgeted amounts as required by law.

Results of Follow-Up Procedures

The City partially corrected this finding. Our discussions with City personnel and examination of City records for the 2013-14 and 2014-15 fiscal years disclosed that:

- Since State law¹¹ requires budget amendments to be approved in the same manner as the original budget, the Commission was required to approve amendments by resolution. However, contrary to State law, the Commission approved budget amendments by motion. In response to our inquiries, City personnel indicated that they continued to approve budget amendments by motion due to an oversight.
- Certain General Fund, Impact Fee Trust Fund, and Transportation Trust Fund expenditure categories were overexpended as show in Table 2.

Table 2
Comparison of Final Budget to Actual Amounts

	2013-14 Fiscal Year			2014-15 Fiscal Year		
	Final Budget	Actual Expenditures	Difference	Final Budget	Actual Expenditures	Difference
General Fund:						
Public Safety	\$2,511,600	\$2,638,021	\$(126,421)	-	-	-
Debt Service	-	19,612	(19,612)	-	-	-
Impact Fee Trust Fund:						
Public Safety	27	32,097	(32,070)	-	-	-
Transportation Trust Fund:						
Transportation	-	-	-	\$307,822	\$321,132	\$(13,310)

Source: City's Audited Financial Reports.

Although the City approved budget amendments in November 2014 and November 2015, which were within 60 days following the respective fiscal year-end, the budget amendments did not eliminate the overexpenditures. In response to our inquiries, City personnel indicated that budget amendments were not prepared for expenditures exceeding budgets because of confusion over who was responsible for preparing the budget amendments.

Without properly amending the budget to meet changing financial circumstances, there is an increased risk that expenditures may exceed available resources.

¹¹ Section 166.241(4), Florida Statutes.

Recommendation: We continue to recommend that the City ensure budget amendments are approved through resolution and that expenditures are limited to budgeted amounts as required by law.

TRANSPARENCY REQUIREMENTS

Finding 18: Annual Financial Report and Budget Transparency

Previously Reported

The City did not timely post required budget information and did not include a link to its annual financial reports on its Web site, contrary to State law.¹²

We recommended that the City enhance procedures to ensure that tentative and final adopted budgets, and budget amendments, are timely posted on its Web site, and include a link to the Florida Department of Financial Services (DFS) Web site to view the City’s annual financial report. We also recommended that the City consider including other financial information on its Web site, such as its audit reports, to improve financial transparency.

Results of Follow-Up Procedures

The City corrected this finding. Our examination of the City’s Web site in May 2016 indicated that the Web site included links to relevant financial information, including audit reports, tentative and final budgets, and budget amendments. The City’s Web site was also updated in October 2017 to include a link to the DFS Local Government Financial Reporting Web site.

PERSONNEL AND PAYROLL ADMINISTRATION

Finding 19: Compensation for Elected Officials and Employee Bonuses

Previously Reported

The salaries of elected City officials were not in accordance with applicable ordinances and the salary increases for elected officials were not properly authorized. In addition, City records did not evidence the specific authority for, or public purpose of, providing safety pay bonuses to City employees other than firefighters.

We recommended that the City amend or adopt its ordinances to ratify the salary increases provided to the elected officials from October 2006 through February 2013, or return the salaries to their previous levels. We also recommended that the City ensure that compensation for elected City officials is in accordance with applicable ordinances and that the authority for safety pay bonuses for City employees is properly documented, or the practice should be discontinued. Additionally, we recommended that the Commission consult with legal counsel regarding salaries paid in excess of that authorized by ordinances.

¹² Sections 166.241(3) and 218.32(1), Florida Statutes.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records and discussions with City personnel disclosed that the City consulted with its legal counsel regarding salaries previously paid in excess of that authorized by City ordinances and, on September 9, 2014, the Commission adopted Ordinance No. 2014-0713, retroactive to October 1, 2006, which authorized the City to increase the salary of each City official, elected or otherwise, as long as the adjustments were for inflation or other economic trends impacting compensation value, calculated and applied consistently with the percentage increase to all City employees, and made at the same time as other employee salary increases.

We also noted that in preparing the 2015-16 fiscal year budget, the Commission approved a \$500 performance bonus for City employees based on meeting a minimum score on the annual performance evaluation. According to City personnel, all City employees met the minimum score on the annual performance evaluation and were paid the performance bonus. However, the City also paid performance bonuses totaling \$3,500 to elected City officials, who do not receive annual performance evaluations and were not otherwise eligible for the bonus as provided in the new City ordinance. Insofar as the City Charter¹³ requires that the salaries and compensation of all City officers be fixed by ordinances, and Ordinance No. 2014-0713 did not provide for City officials to receive performance bonuses, the bonuses paid to the elected City officials were contrary to law. In response to our inquiries, City personnel indicated that elected City officials were inadvertently paid the performance bonuses due to an oversight.

Additionally, the City adopted a safety pay policy on April 7, 2015, which provided 8 hours of extra pay for City employees, other than firefighters, who work a complete fiscal year without receiving workers' compensation benefits. The City subsequently paid safety pay bonuses in April 2015 to applicable employees who worked the 2014 calendar year and did not receive workers' compensation benefits. However, our review of the City's safety pay policy indicated that it is not in accordance with State law,¹⁴ which requires, in part, that any ordinance designed to implement a bonus scheme must base the bonus award on work performance and describe the performance standards and evaluation process by which the bonus will be awarded. As the safety pay policy provides a bonus for not reporting a workplace injury, rather than work performance, the policy is contrary to State law.

Recommendation: We continue to recommend that the City ensure that compensation for elected City officials is in accordance with applicable ordinances, and that elected City officials reimburse the City for the incorrectly paid performance bonuses totaling \$3,500. We also continue to recommend that the City document the authority for safety pay bonuses for City employees or revise Ordinance No. 2014-0713 to eliminate the safety pay bonus provisions for City employees.

¹³ City Charter, Article IV, Section 23.

¹⁴ Section 215.425(3), Florida Statutes.

Finding 20: Hiring Practices

Previously Reported

The City Commission had not, of record, approved position descriptions to be used as a basis for establishing minimum qualifications for candidates for employment, and the City did not document the authorization to hire two of ten new employees tested.

We recommended that the City adopt position descriptions that specify minimum education and experience requirements. Also, to provide for effective and efficient personnel administration, we recommended that the City ensure employment applications, position descriptions, and personnel action forms are utilized during the hiring process and maintained in the personnel files.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records and discussions with City personnel indicated that, during the audit period, employment applications and personnel action forms were utilized for new hires and maintained in the personnel files. We also noted that City records evidenced that the City generally used position descriptions specifying minimum education and experience requirements in developing advertisements for job vacancies; however, the Commission did not adopt the position descriptions. In response to our inquiries, City personnel indicated that a classification and pay plan would be completed and adopted as time and resources were available.

Commission-adopted position descriptions would provide additional assurance that applicants meet employment qualifications consistent with Commission intent.

Recommendation: We continue to recommend that the City adopt position descriptions that specify minimum education and experience requirements.

Finding 21: Employee Classification and Pay Plans

Previously Reported

Contrary to the *City's Personnel Rules and Regulations Manual (Manual)*, the City Commission had not adopted a classification plan and pay plan to specify job requirements and salary rates for authorized City positions.

We recommended that the Commission adopt a classification plan and a pay plan to ensure that personnel administration and payroll costs are properly managed.

Results of Follow-Up Procedures

The City did not correct this finding. Our discussions with City personnel and examination of City records for the audit period indicated that the City had not adopted a classification plan or pay plan, contrary to Section 8 of the *Manual*. In response to our inquiries in October 2017, City personnel indicated that a classification plan and pay plan would be completed and adopted as time and resources were available.

Establishment of a classification and pay plan would establish minimum requirements for new hires and document required experience, education, and certifications, as applicable, for current employees to

advance to other City positions, and would provide a consistent and systematic framework for City positions and the associated pay rates.

Recommendation: We continue to recommend that the City adopt a classification plan and a pay plan to ensure that personnel administration and payroll costs are properly managed.

Finding 22: Performance Evaluations

Previously Reported

Contrary to the *Manual*, employee personnel evaluations were not completed of record.

We recommended that the City continue efforts to ensure that employee performance evaluations are timely completed and maintained in personnel files as required by the *Manual*.

Results of Follow-Up Procedures

The City corrected this finding. As of September 30, 2015, the City had 62 employees in the Administration and Finance, Operations, and Police Departments who were required to undergo annual employee performance evaluations. Our examination of 15 selected employee personnel files indicated that the annual performance evaluations had been conducted as of September 30, 2015.

Finding 23: Overtime Payment Monitoring

Previously Reported

The City's monitoring of employee overtime could be improved.

We recommended that the City enhance management controls by performing overtime and staffing analyses to ensure the most cost efficient and effective use of human resources. We also recommended that the City evaluate whether its practices are consistent with the Commission's intent and United States Department of Labor on-call guidelines, and amend the *Manual* as necessary.

Results of Follow-Up Procedures

The City did not correct this finding. Our examination of City records and discussions with City personnel indicated that, as of October 2017, the City had not performed formal overtime and staffing analyses to ensure the most cost efficient and effective use of human resources. According to the City Clerk, he and the Finance Director discussed plans for addressing overtime usage and determined that it was more cost effective to pay for overtime than to hire additional employees. However, although we requested, City personnel did not provide documentation evidencing the determination. Excluding firefighters, the City paid overtime pay of \$163,467 to 42 employees, \$193,897 to 48 employees, and \$233,422 to 55 employees, during the 2014, 2015, and 2016 calendar years, respectively. As shown in Tables 3, 4, and 5, our examination of payroll records for these overtime payments disclosed:

- 9 employees with total overtime payments ranging from 26 to 62 percent of their base salaries for the 2014 calendar year. The overtime payments to these 9 employees was 50 percent of the total Citywide overtime paid (excluding payments to firefighters) for the 2014 calendar year.

- 8 employees with total overtime payments ranging from 25 to 74 percent of their base salaries for the 2015 calendar year. The overtime payments to these 8 employees was 49 percent of the total Citywide overtime paid (excluding payments to firefighters) for the 2015 calendar year.
- 10 employees with total overtime payments ranging from 27 to 86 percent of their base salaries for the 2016 calendar year. The overtime payments to these 10 employees was 55 percent of the total Citywide overtime paid (excluding payments to firefighters) for the 2016 calendar year.
- 7 of the 9 employees receiving the largest amount of overtime payments as a percentage base pay during the 2014 calendar year also earned the largest amount of overtime payments as a percentage of base pay during the 2015 calendar year.
- 6 employees earned the largest amount of overtime payments as a percentage of base pay during the 2014, 2015, and 2016 calendar years.

Table 3
Employees With the Largest Amount of Overtime Pay as a Percentage of Base Salary
For the 2014 Calendar Year

Employee Position	Total Overtime Hours	Total Overtime Pay	Total Base Salary	Total Wages	Overtime Pay Percentage of Base Salary
Wastewater Plant Supervisor ^a	882.0	\$ 20,465	\$ 33,172	\$ 53,637	62%
Wastewater Plan Operator ^b	103.0	2,023	4,928	6,951	41%
Wastewater Plan Operator ^c	574.0	10,471	26,039	36,510	40%
Public Works Laborer ^d	529.5	7,580	21,135	28,715	36%
Gas Laborer ^e	506.0	8,926	26,063	34,989	34%
Gas Crew Supervisor	511.0	7,128	21,380	28,508	33%
Public Works Laborer ^f	443.0	6,741	22,360	29,101	30%
Electric Lineman ^g	421.0	11,157	38,752	49,909	29%
Public Works Supervisor	399.0	7,479	28,408	35,887	26%
Total Overtime Payments		\$ 81,970			
Total Citywide Overtime Payments (Excluding Payments to Firefighters)		\$163,467			
Percentage of Citywide Overtime Payments		50%			

^{a, b, c, d, e, and g} These positions were held by individuals who received overtime payments during the 2014, 2015, and 2016 calendar years.

^f This position was held by an individual who received overtime payments during the 2014 and 2015 calendar years.

Table 4
Employees With the Largest Amount of Overtime Pay as a Percentage of Base Salary
For the 2015 Calendar Year

Employee Position	Total Overtime Hours	Total Overtime Pay	Total Base Salary	Total Wages	Overtime Pay Percentage of Base Salary
Wastewater Plan Operator ^b	1,080.0	\$ 22,565	\$ 30,415	\$ 52,980	74%
Wastewater Plant Supervisor ^a	854.0	20,832	35,516	56,348	59%
Public Works Laborer ^d	616.5	9,303	22,618	31,921	41%
Public Works Laborer ^f	564.5	9,356	24,879	34,235	38%
Wastewater Plant Supervisor	201.0	3,618	9,978	13,596	36%
Gas Laborer ^e	479.0	9,853	32,594	42,447	30%
Wastewater Plan Operator ^c	433.0	8,602	29,579	38,181	29%
Electric Lineman ^g	367.0	11,500	46,152	57,652	25%
Total Overtime Payments		\$ 95,629			
Total Citywide Overtime Payments (Excluding Payments to Firefighters)		\$193,897			
Percentage of Citywide Overtime Payments		49%			

a, b, c, d, e, and g These positions were held by individuals who received overtime payments during the 2014, 2015, and 2016 calendar years.

f This position was held by an individual who received overtime payments during the 2014 and 2015 calendar years.

Table 5
Employees With the Largest Amount of Overtime Pay as a Percentage of Base Salary
For the 2016 Calendar Year

Employee Position	Total Overtime Hours	Total Overtime Pay	Total Base Salary	Total Wages	Overtime Pay Percentage of Base Salary
Wastewater Plan Operator ^b	1,187.0	\$ 26,161	\$ 30,591	\$ 56,752	86%
Wastewater Plant Supervisor ^a	766.0	19,109	35,226	54,335	54%
Electric Lineman ^g	552.5	18,903	48,549	67,452	39%
Waste Water Plan Operator ^c	510.0	10,672	29,381	40,052	36%
Electric Lineman	297.5	5,033	14,960	19,993	34%
Gas Laborer ^e	438.0	9,332	27,922	37,254	33%
Electric Lineman	472.5	9,594	28,884	38,479	33%
Electric Lineman	429.0	13,707	45,438	59,146	30%
Electric Lineman	412.0	10,111	34,189	44,300	30%
Public Works Laborer ^d	388.0	6,583	24,335	30,918	27%
Total Overtime Payments		\$129,205			
Total Citywide Overtime Payments (Excluding Payments to Firefighters)		\$233,422			
Percentage of Citywide Overtime Payments		55%			

a, b, c, d, e, and g These positions were held by individuals who received overtime payments during the 2014, 2015, and 2016 calendar years.

When overtime is not effectively monitored, the risk increases that errors, waste, or fraud may occur and not be timely detected. Properly developed policies or procedures establish guidance requiring department heads and supervisory staff to review and consider the reasonableness of reported overtime and the related charges.

Additionally, as of June 2016, the City had not evaluated whether its practices for employees who are on-call were consistent with the Commission's intent and United States Department of Labor on-call guidelines, and had not developed written procedures or guidelines regarding on-call requirements or limitations. Our examination of City records for the 2014, 2015, and 2016 calendar years indicated that the City continued to allow certain employees to report overtime hours when they were on-call, generally for 9 hours per week (1 hour per day during the workweek and 2 hours per day on weekends), as well as actual time worked if called in. In response to our inquiries in October 2017, City personnel indicated that the new City Manager revised the practice of paying on-call hours at overtime rates to paying on-call hours at base hourly rates effective May 1, 2017, and was in the process of evaluating the City's overtime practices and on-call guidelines.

Recommendation: We continue to recommend that the City perform overtime and staffing analyses to ensure the most cost efficient and effective use of human resources. Also, the City should evaluate whether its practices are consistent with the Commission's intent and United States Department of Labor on-call guidelines, and amend the *Manual* as necessary.

PROCUREMENT AND EXPENDITURES

Finding 24: Credit Cards

Previously Reported

The City Commission did not, of record, approve the issuance of credit cards for use by City employees and did not adopt guidance as to the assignment and proper use of City credit cards, and the City needed to enhance controls over the use of credit cards.

We recommended that the City determine whether credit cards should be used and, if so, determine by whom and establish written policies and procedures governing credit card control and use. We also recommended that such policies and procedures require all employees utilizing credit card privileges to sign a written agreement evidencing their understanding of, and agreement with, the City's credit card policies and procedures. Additionally, we recommended that the City enhance controls to provide for the retention of detailed billing statements and receipts for all charges on City-issued credit cards and to provide for timely payments in full to avoid incurring additional fees and charges.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records and discussions with City personnel disclosed that on November 17, 2015, the Commission adopted a credit card policy that established guidelines for the use of City credit cards; however, the policy did not require a written agreement signed by the cardholder to evidence the cardholder's understanding of, and agreement with, the City's credit card policy. Without a written agreement between the City and cardholder, there is an increased risk that the credit cards may be used for unauthorized purchases.

During the period October 2015 through February 2016, City-issued credit cards were used for 96 transactions totaling \$12,153. To determine if credit cards were appropriately used, we examined 30 credit card charges totaling \$7,070 and related monthly credit card statements and found that:

- One transaction totaling \$383 was not supported by an original receipt or other documentation. Subsequent to our inquiries, City personnel contacted the vendor, obtained a copy of the receipt, and documented that the purchase was reasonable and served a valid public purpose. Absent supporting receipts for charges incurred and paid with City credit cards, City records do not demonstrate that such charges were reasonable and served a public purpose at the time the City paid the credit card statement. City personnel indicated that documentation supporting the purchase was not obtained prior to payment of the applicable credit card statement due to an oversight.
- The November 2015 credit card statement included \$35 in late fees and \$40 in finance charges (total of \$75) because City staff did not timely pay balances in full. Failure to timely pay bills in full results in additional fees and charges, which is an inefficient use of the City's resources. According to City personnel, the payment was not timely made because supporting documentation for all purchases was not available at the payment due date.

Recommendation: We continue to recommend that the City enhance its credit card policy to require all employees utilizing City credit cards to sign an agreement evidencing their understanding of, and agreement with, the City's credit card policies and procedures. Additionally, the City should continue efforts to ensure the submittal and retention of receipts for all City-issued credit card charges and to provide timely payments in full to avoid incurring additional fees and charges.

Finding 25: Purchasing and Disbursement Processing

Previously Reported

City records did not always evidence adequate supporting documentation for purchases and disbursements, including properly approved purchase orders, invoices detailing the cost of goods and services, and evidence that goods and services were received.

We recommended that City personnel ensure that requisitions and purchase orders are used to document the approval of purchases, and a competitive selection process is used, as required by the City's purchasing policies. We also recommended that the City ensure that all expenditures are supported by vendor invoices, documentation of receipt, and evidence of review and approval for accuracy and completeness prior to payment.

Results of Follow-Up Procedures

The City did not correct this finding. To determine whether purchases and disbursements complied with the City's *Purchasing Policies and Bidding Procedures* (purchasing policies), and were supported with adequate documentation, we examined City records supporting 20 expenditures totaling \$214,391 from the population of 17,762 expenditures totaling \$21 million during the audit period. We noted that:

- 2 expenditures totaling \$6,126 (\$3,776 for tree trimming services and \$2,350 for traffic signal repair services) were not supported by a requisition, purchase order, or other documentation evidencing preapproval. Additionally, although we requested, City records were not provided to evidence that these purchases were of an emergency nature and thereby not subject to preapproval. Purchase orders and requisitions serve to document management's authorization

to acquire goods or services, including the prices, quantities, and specifications, and authorize vendors to provide the goods or services to the City.

- 10 expenditures totaling \$181,316 were not supported by evidence of receipt, such as an employee signature and date evidencing that the goods and services were received, inspected, and approved. The expenditures included \$95,000 for a sewer truck; \$57,260 for a loader backhoe; \$18,980 for police equipment; \$6,814 for electrical services; and \$3,262 for pocket appointment calendars. Absent evidence that goods and services are received, there is an increased risk for improper expenditures. In response to our inquiries, City personnel indicated that the failure to document receipt of goods or services was due to oversights.
- The City's purchasing policies require that purchases from \$1,000 to \$15,000 be made only after informal bids (written or verbal quotes) are received from at least three vendors, recorded on the required form, and attached to the requisition. However, we noted 10 expenditures for items costing from \$1,000 to \$15,000, and totaling \$40,605, that were not supported by informal bids from at least three vendors. The expenditures included \$13,820 for police vehicle equipment, \$5,760 for water tower lighting materials, \$3,875 for utility pole tags, \$3,776 for tree trimming services, \$3,316 for police rifle conversion kits, \$3,262 for pocket appointment calendars, \$2,601 for an ice machine, \$2,350 for traffic light repair services, and \$1,845 for vehicle emergency lights. Failure to procure goods or services using a competitive selection process increases the risk that goods or services may not be obtained at the lowest cost consistent with acceptable quality.

Recommendation: We continue to recommend that City personnel ensure that requisitions and purchase orders are used to document the approval of purchases, and that a competitive selection process be used, as required by the City's purchasing policies. The City should also ensure that all expenditures are supported by vendor invoices, documentation of receipt, and evidence of review and approval for accuracy and completeness prior to payment.

CONTRACTUAL SERVICES

Finding 26: Auditing Services

Previously Reported

The City did not require that invoices for auditing services be provided in sufficient detail to demonstrate compliance with the terms of the contract, and \$64,822 of noncontract auditing services were requested and provided without apparent authority. In addition, the City overpaid \$2,567 for auditing services.

We recommended that the City ensure compliance with the auditor selection and contract requirements prescribed in State law.¹⁵ We also recommended that the City either document the necessity for the \$2,567 paid in excess of the contract for the 2008-09 and 2009-10 fiscal years or request a refund from the audit firm. Additionally, we recommended that the City establish contract monitoring procedures to ensure that payments do not exceed contract amounts.

Results of Follow-Up Procedures

The City partially corrected this finding. In November 2015, the City contracted with a firm to obtain an annual financial audit prepared by an independent certified public accountant (CPA) for the City's 2014-15 fiscal year financial statements. The contract provided for a fixed fee of \$65,000, and supporting

¹⁵ Section 218.391, Florida Statutes.

documentation for the two payments made to the CPA firm evidenced that the City Clerk reviewed and approved the invoices prior to payment and that the total amount paid agreed with the contracted fee.

Notwithstanding, the City did not, of record, request or receive a refund of the \$2,567 paid in excess of the contract for the 2008-09 and 2009-10 fiscal years or document the necessity for the \$2,567 paid in excess of the contract. In June 2016, the City Clerk indicated that the City contacted the former CPA firm to recover the \$2,567 overpayment, and the CPA firm responded that the City Clerk employed at that time verbally requested the additional work performed, which was billed and paid accordingly. Although we requested, we were not provided documentation of the Clerk's request and the CPA firm's response.

Recommendation: We recommend that the City ensure that amounts paid for auditing services agree with contracted fees and, if additional services are required, document in City records the authorization for, and satisfactory receipt of, those services. In addition, the City should consult with legal counsel as to whether the City should take further action to collect the \$2,567 paid to the former CPA in excess of the contracted amount.

Finding 27: Engineering Services

Previously Reported

The City did not authorize individual projects under its engineering services agreement in accordance with agreement terms and revised the arrangement for payments to be made on a retainer basis without entering into a revised agreement. Also, contrary to law, the agreement did not include a provision prohibiting contingent fees.

We recommended that the City ensure that engineering agreements are written and that each project authorized utilizing engineering services has, in writing, a mutually agreed upon scope of work, completion date, fee amount, and method of payment. We also recommended that the City include the prohibition against contingent fees clause in its agreements for engineering services, as required by law.

Results of Follow-Up Procedures

The City did not correct this finding. Our examination of City records and discussions with City personnel indicated that the City entered into a written agreement with an engineering firm on March 29, 2014. The agreement provided that compensation for the engineering services would be based on a lump sum fee, hourly rate, or other amount as agreed upon in advance, and that services would not be rendered until the City Manager provides authorization and a description of the work to be performed and the services to be provided.

To determine whether engineering services were obtained in accordance with the agreement, from the population of 46 payments to the engineering firm totaling \$163,135 during the audit period, we examined City records supporting 20 payments totaling \$127,455 for 16 engineering projects. We noted that expenditures totaling \$104,575 for 14 engineering projects were not supported by written authorizations describing the work to be performed and the services to be provided, or a lump sum fee, hourly rate, or other amount agreed upon in advance. According to City personnel, the City Manager employed at the time verbally authorized the engineering projects rather than authorizing them in writing. Absent a written agreement specifying the nature of the services to be performed or documentation specifying terms for

specific projects and the amount of compensation to be provided, the City cannot be assured that payments made to contractors are in compliance with the intent of the Commission and that the City received the services to which it was entitled.

Additionally, although we did not note any contingent fees in the 20 payments examined, the City did not include the prohibition against contingent fees clause in the engineering services agreement, contrary to State law.¹⁶ In response to our inquiries, City personnel indicated that the prohibition against contingent fees clause was not included in the agreement due to an oversight.

Recommendation: We continue to recommend the City ensure that engineering authorizations are documented and that a mutually agreed upon scope of work and fee amount be established in writing for each project authorized utilizing engineering services. The City should also include the prohibition against contingent fees clause in its agreements for engineering services, as required by law.

Finding 28: Legal Services

Previously Reported

The City did not, of record, enter into a signed and dated (executed) written agreement for legal services, and the City Commission did not timely approve a renewal agreement for such services.

We recommended that the City ensure that signed copies of agreements are obtained and maintained in the City's records, and ensure timely Commission approval of agreement renewals and new agreements upon expiration.

Results of Follow-Up Procedures

The City corrected this finding. The City entered into a 1-year contract with a firm for legal services on December 2, 2014, as authorized by the Commission. The contract stipulated that the City pay a sum of \$3,500 per month for the first 25 hours of legal services and \$150 per hour thereafter. On January 19, 2015, the Commission approved the renewal of the contract for a 2-year period. The City maintained signed copies of both contracts.

Finding 29: Insurance Services

Previously Reported

The City did not competitively select its health insurance provider, contrary to law, and did not competitively procure commercial property, liability, and automobile coverage, contrary to the City's *Purchasing Policies and Bidding Procedures* for purchases greater than \$15,000 and good business practices.

We recommended that the City enter into fixed-price agreements for future insurance broker services and periodically competitively procure insurance products to ensure that necessary coverage is obtained at the lowest cost consistent with acceptable quality.

¹⁶ Section 287.055(6), Florida Statutes, requires contracts for engineering services to contain a prohibition against the payment of contingent fees or other consideration resulting from the award of the contract.

Results of Follow-Up Procedures

The City corrected this finding. Our examination of City records and discussions with City personnel indicated that the City competitively procured health, commercial property, liability, and automobile insurance coverages. The City advertised a request for proposals for health insurance coverage on July 30, 2015, and August 6, 2015, and subsequently selected a new provider on August 25, 2015. The services were effective October 6, 2015, for participation for at least 2 years. Additionally, the City requested formal quotes from three insurance providers for commercial property, liability, and automobile insurance coverages on May 18, 2015, and subsequently selected a new provider on June 16, 2015, for coverage effective for the 2015-16 fiscal year.

Finding 30: Other Professional Services

Previously Reported

City procedures for obtaining certain other professional services, and the review of related invoices, could be enhanced.

We recommended that the City strengthen procurement procedures for other professional services to ensure contracts are properly approved and specify a contract period and that vendor invoices are complete, in accordance with contract terms and conditions, and properly reviewed and approved prior to payment.

Results of Follow-Up Procedures

The City did not correct this finding. According to City personnel, the City contracted with four individuals for other professional services during the audit period. Our examination of the contracts for two of the individuals, a building official consultant with a contract dated March 2014 and a zoning administrator consultant with contracts dated November 2013 and January 2015, disclosed that the consultants were to function as the City's building official and zoning administrator, respectively. The building official contract provided for monthly payments of \$1,667 and the zoning administrator's two contracts provided for an hourly rate of \$25 and monthly payments of \$500, respectively. Payments were subject to services being rendered as requested by City personnel and upon submittal of daily billing records documenting dates and hours worked. During the audit period, the City paid \$28,333 and \$6,800 for building official and zoning administrator consulting services, respectively.

We also noted that the City did not have building official or zoning administrator job descriptions and the contracts did not specify the duties to be performed or a minimum number of days or hours to be worked. Additionally, although the minutes for the January 5, 2015, Commission meeting indicated that the zoning administrator contract was discussed, Commission minutes did not evidence that the zoning administrator contract or the building official contract had been approved.

Our examination of City records supporting payments to each consultant, including two payments totaling \$3,334 to the building official consultant for the months of December 2015 and January 2016, and two payments totaling \$1,500 to the zoning administrator consultant for the months of July, August, and September 2015, disclosed that the contractors' invoices referenced the contracts with the City and the month billed. However, daily billing records were not provided with the invoices and the invoices did not

provide the dates, number of hours worked, or the specific services performed. In response to our inquiries, City management indicated that the reference to daily billing records was inadvertently retained in the contract document language when the contracts were revised to pay the consultants on monthly basis rather than an hourly basis and that City personnel had inadequate training and knowledge for administering professional services contracts and monitoring contract payments.

Absent a written agreement specifying the nature of the services to be performed or documentation specifying terms for specific projects and the amount of compensation to be provided, the City cannot be assured that payments made to contractors are consistent with the Commission's intent or that the City received the services to which it was entitled. Additionally, without effective procedures for monitoring other professional services contracts and invoices, the risk of improper payments being made without timely detection increases.

Recommendation: We continue to recommend that the City strengthen procurement procedures for other professional services to require that contracts be properly approved and specify the duties to be performed and ensure that consultants submit invoices in sufficient detail to evidence the dates, number of hours worked, and specific services performed.

Finding 31: Employee/Independent Contractor Status

Previously Reported

The City had not established procedures to document the basis for classifying individuals as independent contractors rather than City employees, and our review disclosed four individuals the City classified as independent contractors that perhaps should have been more appropriately classified as employees based on Internal Revenue Service (IRS) guidelines.

We recommended that the City establish procedures to document the relevant facts and circumstances upon which workers are classified as independent contractors rather than employees. We also recommended the City contact the IRS to determine whether these four individuals should be classified as employees rather than independent contractors and, if appropriate, amend its payroll reporting and remit any required payroll taxes and retirement contributions for the employees to the appropriate Federal and State agencies.

Results of Follow-Up Procedures

The City did not correct this finding. As of October 2017, City personnel had not established procedures to document the relevant facts and circumstances upon which workers are classified as independent contractors rather than employees. Additionally, City personnel did not contact the IRS to determine whether those individuals previously classified as independent contractors should have been classified as employees and, as a result, did not determine whether it was necessary to amend its payroll reporting or remit any required payroll taxes and retirement contributions for the employees to the appropriate Federal and State agencies.

According to City personnel, the City engaged four independent contractors during the audit period, and paid:

- \$52,500 to the City Attorney.

- \$33,860 to a mechanic.
- \$28,333 to a building official.
- \$6,800 to a zoning administrator.

City personnel also indicated that the mechanic, building official, and zoning administrator personally performed the services. The City provided work space and office equipment to the building official and zoning administrator and provided work space and equipment, including City vehicles, tools, and supplies, for the mechanic. However, although we requested, City records were not provided to document the relevant facts and circumstances upon which City personnel classified the three individuals as independent contractors rather than employees.

Additionally, the City did not contact the IRS to determine whether the individuals should be classified as employees rather than independent contractors or amend its payroll reporting and remit any required payroll taxes and retirement contributions for the employees to the appropriate Federal and State agencies. In response to our inquiries, City management indicated that procedures had not been developed to assist in the classification of individuals as employees or independent contractors because City personnel lacked knowledge and training in making such determinations and that the IRS had not been contacted for a determination due to an oversight.

Without adequate and sufficient information of record to evidence the relevant facts and circumstances for classifying individuals as employees or independent contractors, there is an increased risk that the City may be subject to additional payroll taxes and penalties for individuals classified as independent contractors who should have been classified as employees.

Recommendation: We continue to recommend that the City establish procedures to document the relevant facts and circumstances upon which workers are classified as independent contractors rather than employees. The City should also contact the IRS for assistance in determining whether certain individuals should be classified as employees rather than independent contractors, and if appropriate, amend payroll reporting and remit any required payroll taxes and retirement contributions for the employees to the appropriate Federal and State agencies.

VEHICLE USAGE

Finding 32: Vehicle Taxable Fringe Benefit

Previously Reported

The City needed to enhance its written policies and procedures to ensure compliance with the Internal Revenue Code¹⁷ regarding the reporting of personal use of unmarked police vehicles in employees' gross compensation reported to the IRS.

¹⁷ United States Treasury Regulation (Regulation) 1.61-21(a)(2) provides that an employee's gross income includes the fair market value of any fringe benefit not specifically excluded from gross income by another provision of the Internal Revenue Code (IRC). Section 132(a)(3) of the IRC provides that gross income will not include the value of any fringe benefit that qualifies as a working condition fringe benefit. Regulation 1.132-5(h) further provides that the use of a qualified nonpersonal use vehicle is a working condition fringe benefit provided the use of the vehicle conforms to the requirements of Regulation 1.274-5(k).

We recommended that the City enhance its written policies and procedures to ensure compliance with applicable provisions of the Internal Revenue Code (IRC).

Results of Follow-Up Procedures

The City did not correct this finding. The City revised Procedure 1.102 of the *Police Department Procedures Manual (Police Manual)* on June 13, 2016, to restrict personal use of police vehicles to the geographical boundaries of the City of Starke and to limit the personal use of assigned police vehicles to that incidental to law enforcement purposes. The City's land area is only 6.8 square miles (approximately 2.6 miles by 2.6 miles). However, City records disclosed that over the 12-month period from October 2015 through September 2016 police vehicles were apparently used for personal use in addition to City purposes as approximately 7,701 gallons of fuel were used, ranging from 695 to 1,439 gallons for each of the City's seven unmarked vehicles, or about 58 to 120 gallons per month. While the City's revised procedure provided for officers living outside the 20-mile radius from City limits jurisdictional lines to pay \$3 per day to maintain their vehicle take-home privileges, the three officers living outside the 20-mile radius were not assessed the \$3 per day charge and the equivalent benefit for personal use of the vehicles was not reported in the employees' gross compensation reported to the IRS.

In response to our inquiries in October 2017, City personnel indicated that the \$3 per day charge was not assessed and the equivalent benefit for personal use of the vehicles was not included in the employees' gross compensation reported to the IRS because of a lack of communication between departments. Without appropriately assessing employees or reporting employee gross compensation to the IRS, the City did not comply with *Police Manual* procedures or the IRC.

Recommendation: We continue to recommend that the City enhance procedures to ensure compliance with applicable provisions of the *Police Manual* and IRC.

PUBLIC WATER SYSTEM

Finding 33: Diesel Generator Usage Records

Previously Reported

The City had not developed standardized procedures for documenting the preventative maintenance and periodic testing of diesel generators for the City's water and sewer system, contrary to Florida Department of Environmental Protection (FDEP) rules.¹⁸

We recommended that the City enhance procedures to ensure that diesel generator tests are conducted as required and that test and maintenance reports are timely and accurately prepared and maintained to

¹⁸ FDEP Rule 62-555.320(14), Florida Administrative Code (FAC), provides that each community water system serving, or designed to serve, 350 or more persons or 150 or more service connections must provide standby power using one or more auxiliary power sources (i.e., generators or engines) for operation of that portion of the system's water source, treatment and pumping facilities necessary to deliver drinking water meeting all applicable standards at a rate at least equal to the average daily water demand for the system. FDEP Rule 62-555.350(2), FAC, provides that suppliers of water must keep all necessary public water system components in operation and must maintain such components in good operating condition so the components function as intended. This rule also requires that preventative maintenance on electrical and mechanical equipment, including exercising of auxiliary power sources, be performed in accordance with the equipment manufacturer's recommendations or in accordance with a written preventative maintenance program established by the supplier or water; however, in no case shall auxiliary power sources be run under load less frequently than monthly.

evidence that proper preventative maintenance is performed and diesel generators are periodically tested at required intervals.

Results of Follow-Up Procedures

The City did not correct this finding. As of October 2017, the City had not developed standardized procedures for documenting the preventive maintenance and periodic testing of diesel generators for the City’s water and sewer systems, which served approximately 2,600 service connections during the audit period. Our examination of diesel generator test and maintenance reports for the audit period indicated that the reports did not evidence periodic testing or that preventative maintenance was performed at the required intervals (i.e., at least monthly). For the City’s three diesel generators, the generator test and maintenance report for the Southwest Water Treatment Plant generator contained no entries from May 29, 2015, until May 12, 2016 (349 days), and the generator test and maintenance report for the Wastewater Treatment Plant generator contained no entries from May 29, 2015, until June 7, 2016 (375 days). In addition, City personnel did not maintain a generator test and maintenance report for the Water Tower for the audit period. In response to our inquiries, City personnel indicated that the test and maintenance reports were not properly maintained because of a lack of supervisory oversight.

Failure to properly maintain and test the diesel generators could result in the generators not functioning properly during electrical power outages and the inability of the City to deliver water to customers and treat sewage waste during those outages.

Recommendation: We continue to recommend that the City enhance procedures to ensure that diesel generator tests are conducted as required and to require test and maintenance reports be timely and accurately prepared and maintained to evidence the performance of proper preventative maintenance and required periodic testing of diesel generators.

CAPITAL ASSETS

Finding 34: Tangible Personal Property Inventory

Previously Reported

The City did not timely reconcile the results of its 2011-12 fiscal year tangible personal property (TPP) inventory to the property records.

We recommended that the City ensure that the results of physical inventories of TPP are promptly reconciled to the City’s property records.

Results of Follow-Up Procedures

The City did not correct this finding. As of October 2017, City records were not available evidencing that physical inventories of TPP were performed or that the results reconciled to City property records for the fiscal years ended September 30, 2013, through September 30, 2016. Table 6 shows the City-reported TPP amounts for those four fiscal years.

Table 6
Tangible Personal Property
(In Thousands)

Fiscal Year Ended	Amount
September 30, 2013	\$6,700
September 30, 2014	6,900
September 30, 2015	7,300
September 30, 2016	7,900

Source: City's Audited Financial Reports.

In response to our inquiries, City personnel indicated that they did not perform physical inventories of TPP due to lack of available staff and resources. Effective controls over TPP include periodic comparisons of detailed property records with inventory counts of existing assets, and appropriate actions to resolve any differences.

Recommendation: We continue to recommend that the City ensure physical inventories of TPP are conducted annually and that the inventory results are promptly reconciled to the City's property records.

Finding 35: Motor Vehicles

Previously Reported

The City had not developed written policies and procedures governing the acquisition, assignment, control, use, and disposition of motor vehicles, and providing for the timely renewal of vehicle registrations.

We recommended that the City develop comprehensive written policies and procedures over the use of and accounting for City-owned motor vehicles to ensure adequate accountability for those assets. We also recommended that the City develop procedures for the timely renewals of vehicle registrations.

Results of Follow-Up Procedures

The City partially corrected this finding. Our examination of City records indicated that vehicle registrations for undercover police vehicles were renewed timely and, in March 2016, the Commission approved written policies and procedures governing the assignment, control, and use of motor vehicles. However, the procedures did not require accounting for City-owned vehicles in the City's property records. For example, City personnel provided us with a listing as of February 2016 of City-owned vehicles and trailers that was maintained for insurance purposes showing 71 vehicles and 11 trailers; however, only 42 vehicles and 2 trailers were listed in the City's property records.

As discussed in Finding 34, City personnel did not periodically compare and reconcile detailed property records with existing assets or take actions to resolve the differences to properly maintain property records. Absent properly maintained property records, accountability for motor vehicles is diminished.

Recommendation: We recommend that the City enhance written policies and procedures to ensure that property records include all City-owned motor vehicles and provide adequate accountability for these assets.

ADDITIONAL MATTER

On June 8, 2018, the Florida Commission on Ethics found probable cause to believe the City Clerk misused his position by interfering with the supervision of another official's subordinate employee and by obtaining inappropriate benefits for the employee. A public hearing will be held and the resulting findings or stipulated agreement will be forwarded to the Commission on Ethics for final action.

OBJECTIVES, SCOPE, AND METHODOLOGY

Pursuant to Section 11.45(3)(a), Florida Statutes, we conducted an operational audit of the City of Starke (City) and issued our report No. 2015-009 in August 2014. Pursuant to Section 11.45(2)(j), Florida Statutes, no later than 18 months after the release of a report on the audit of a local government, we must perform appropriate follow-up procedures as we deem necessary to determine the audited entity's progress in addressing the findings and recommendations contained within our previous report. The objectives of this follow-up audit were to determine the progress the City had made, or was in the process of making, in addressing the findings and recommendations in our report No. 2015-009.

We conducted this follow-up audit from April 2016 to August 2016, and from July 2017 to November 2017, in accordance with applicable generally accepted government auditing standards. Those standards require that we plan and perform the follow-up audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the follow-up audit, weaknesses in management's internal controls; instances of noncompliance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our follow-up audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included transactions, as well as events and conditions, occurring during the audit period of October 2014 through February 2016, and selected City actions taken prior and subsequent thereto. Our

audit included the examination of pertinent City records and transactions, inquiry of City personnel, observation of procedures in practice, and additional follow-up procedures as appropriate. Unless otherwise indicated in this report, records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning the relevant population value or size and quantifications relative to the items selected for examination.

Specifically, we:

- For the City Manager hired in February 2015, determined whether the job responsibilities and position description were consistent with the Code of Ordinances (Code) and examined City records supporting the City Manager's education and experience to determine whether he met the qualifications for the position as described in the position description and the Code.
- Examined City records and interviewed City personnel to determine whether the payroll and personnel processing, utility fee collections, accounting records and bank account reconciliations, and electronic funds transfer duties had been adequately separated. We also assessed whether compensating controls had been implemented to mitigate any incompatible duties noted.
- Evaluated City policies and procedures for business-related functions during the audit period to determine whether the written policies and procedures provided adequate and sufficient controls over Commission meeting minutes, budgets, revenues and cash receipts, cash management, credit card and charge accounts, utility account adjustments, capital assets, and contract administration.
- Examined City records to determine whether proper notice was given for Commission meetings, minutes were prepared for all meetings, and meeting minutes were timely approved by the Commission and made available for public inspection.
- Evaluated City policies, procedures, and records maintained to support petty cash transactions and related balances. Specifically, we:
 - Examined City policies and procedures and Commission meeting minutes to determine whether the Commission approved the location, amount, and purpose of each petty cash and change fund.
 - Performed a surprise count of each petty cash and change fund and reconciled our counts to City records.
 - Reviewed documentation for 7 selected disbursements totaling \$1,138 of the 20 recorded petty cash and change fund disbursements during the period August 2015 through February 2016 to determine whether the disbursements were adequately supported, served an authorized public purpose, and were reasonable and necessary.
- Examined City records and held discussions with appropriate personnel to gain an understanding of City controls over bank accounts. Specifically, we:
 - Determined whether the City evaluated the necessity of each bank account and eliminated redundant or unnecessary accounts.
 - Examined City records supporting 30 selected bank account reconciliations for the period October 2015 through February 2016 to determine whether the bank account balances were timely reconciled to the general ledger and the reconciliations contained evidence of supervisory approval.
 - Compared banking agreements with a list of City bank accounts, as of April 2016, to determine whether the accounts were supported by current banking agreements. We also inquired with City staff and examined City records, to determine whether the banking agreements were routinely reviewed and signature cards were timely updated.

- Examined Commission meeting minutes to determine whether public depositories were designated and approved by the Commission.
- Examined City records to determine whether policies and procedures over the authorization and processing of electronic funds transfers (EFTs) had been established and implemented by City personnel. Specifically, we examined the banking agreement to determine whether it specified and authorized the accounts from which EFTs could be made and established single EFT dollar limits. In addition, we examined the agreement to determine whether it required secondary approval of EFTs and specified the destination accounts that can receive EFTs. We also examined City records supporting the 32 October 2015 EFTs totaling \$1,224,870 to determine whether the EFTs were adequately supported and properly authorized.
- Examined City records and inquired of City personnel to determine whether the City established appropriate policies and procedures over cash collections. Specifically, we examined City records supporting the 53 daily cash summary reports for the month of October 2015, composed of 72 receipts (other than utility deposits) totaling \$41,681, to determine whether the City properly used prenumbered receipts for payments made in person, recorded mail collections at the initial point of collection, and restrictively endorsed checks immediately upon receipt.
- Examined the Code governing the administration of local business tax receipts and late payment penalties and evaluated the City's business tax receipts collection procedures, including the City's procedures for assessing penalties on past due accounts, to determine whether the procedures complied with the Code. From the population of 696 business tax receipts issued for the 2015-16 fiscal year, with associated collections totaling \$62,192, we reviewed City records and evaluated whether appropriate actions were taken to collect the local business tax receipts, related fees, and related penalties totaling \$4,501, \$1,125, and \$20,000, respectively, for the 80 delinquent accounts as of April 19, 2016. Also, we determined whether the City Clerk filed the required annual report with the City Commission showing all business tax receipts issued for the 2014-15 fiscal year.
- Examined City records to determine whether City personnel periodically reconciled the utility deposits subsidiary ledger, general ledger, and utility deposit bank account balances for the period October 2015 through February 2016.
- Evaluated City procedures over electricity billing true-up calculations and recalculated the amounts on the October 2015 true-up worksheets to determine whether the amounts were accurate.
- Evaluated the City's procedures for timeliness, review, and approval of utility account adjustments, payment extensions, utility disconnections, and extension cost refunds to determine whether the procedures were in accordance with City ordinances and resolutions. Specifically, we:
 - Evaluated City records supporting the 277 uncollected accounts as of March 2, 2015, to determine whether City staff followed procedures in granting payment extensions or discontinuing utility services.
 - Evaluated whether the 17 utility account adjustments for the months of January and February 2016 totaling \$1,860 were properly documented and approved.
 - For the one water line extension during the audit period, we evaluated whether the project was undertaken pursuant to a Commission-approved written request from the individual property owner, whether the amount of costs to be paid by the customer and City were specified, and whether the Commission approved any refunds.
- Evaluated the City's Enterprise Fund financial condition. We also inquired of City personnel and examined City accounting records, including budget documentation and audited financial statements, to determine whether the City used separate enterprise funds to account for electric,

gas, water, and sewer utility activities. We also determined whether the City obtained a rate study or otherwise assessed whether the gas rates were adequate to cover the costs of providing gas service, assessed electric rates and the power cost adjustment in accordance with the recommendations of the previously obtained electric system rate study, and installed demand meters for customers who had the largest utility use to collect commercial demand rate data for future analysis.

- Evaluated City policies and procedures as of July 2016 to determine whether the City had established a minimum target level of working capital funds to be maintained in the Enterprise Fund and examined City records to determine whether the City maintained working capital in the Enterprise Fund for the 2013-14, 2014-15, and 2015-16 fiscal years at more than the minimum target level recommended by the Government Finance Officers Association.
- Examined the City's 2014-15 and 2015-16 fiscal year budgets to determine whether the budgets were prepared at the required level of detail and prior year fund balances were brought forward and included in the approved budgets.
- Compared the City's 2013-14 and 2014-15 year-end budget amounts with actual expenditures to determine whether expenditures were limited to budgeted amounts. We also examined City minutes of Commission meetings to determine whether budget amendments were approved in the same manner as the original budget.
- Examined City records to determine whether the City's 2014-15 and 2015-16 tentative and final adopted budgets and budget amendments were timely posted on the City's Web site and whether other financial information, such as audit reports, was also made available. Additionally, we examined the City's Web site to determine whether the Web site contained a link to the Department of Financial Services' Web site to view the City's annual financial report.
- Examined City records to determine whether the City amended or adopted ordinances to ratify the salary increases provided to elected officials during the period October 2006 through February 2013 or returned the salaries to their previous levels. We also examined City records to determine whether compensation for elected City officials was in accordance with applicable ordinances and whether the authority for safety pay bonuses for employees other than firefighters was properly documented and the bonuses were paid in accordance with Commission authority.
- Inquired of City personnel and examined City records to determine whether employee position descriptions were adopted. We also examined personnel records for the 11 new hires during the audit period to determine whether the position descriptions specified the minimum education and experience requirements and whether employment applications and personnel action forms were used during the hiring process and maintained in the personnel files.
- Inquired of the City Clerk and examined City records to determine whether the Commission adopted an employee classification plan and a pay plan as required by the City's *Personnel Rules and Regulations Manual*.
- Examined City records to determine whether annual performance evaluations for employees in the Administrative and Finance, Operations, and Police Departments were timely performed for the 2014-15 fiscal year.
- Inquired of the City Clerk and examined City payroll records supporting overtime pay totaling \$163,467 for 42 employees for the 2014 calendar year, \$193,897 for 48 employees for the 2015 calendar year, and \$233,422 for 55 employees for the 2016 calendar year, to determine whether overtime and staffing analyses were performed and whether overtime payments were in accordance with United States Department of Labor on-call guidelines and the City's *Personnel Rules and Regulations Manual*.
- Examined City records to determine whether the Commission adopted policies and procedures governing the control and use of credit cards and charge accounts. Specifically, from the

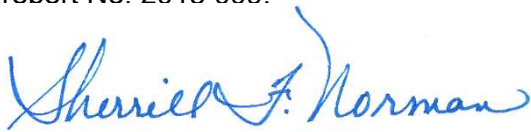
population of 96 credit card transactions totaling \$12,153 during the period October 2015 through February 2016, we examined documentation supporting 30 credit card charges totaling \$7,070 to determine whether documentation adequately demonstrated that the charges were authorized, were reasonable, accomplished a public purpose, and timely paid to avoid additional fees and surcharges.

- Examined City records supporting 20 selected expenditures totaling \$214,391, from the population of 17,762 expenditures totaling \$21 million during the audit period, to determine whether the expenditures served a public purpose, were authorized or preapproved, evidenced receipt of the goods or services by an appropriate party, and were supported by informal bids, where applicable.
- Evaluated the City's contract for auditing services and payment documentation for the 2013-14 and 2014-15 fiscal years to determine whether payments complied with contract terms. Also, for amounts paid in excess of the contract for the 2008-09 and 2009-10 fiscal years, we inquired of the City Clerk and examined applicable City records to determine whether a refund was obtained or the necessity of the additional payments was documented.
- From the population of 46 payments totaling \$163,135 for engineering services during the audit period, examined 20 selected payments composed of payments for 16 engineering projects totaling \$127,455 to determine whether payments were in accordance with contract terms and conditions and supported by written authorizations describing the work to be performed and fees to be paid.
- Examined Commission meeting minutes and contract documents to determine whether the City entered into a written agreement for legal services.
- Examined City records to determine whether insurance products were competitively procured and insurance broker services were obtained through fixed-price agreements, if applicable.
- Inquired of City personnel and examined City records to determine whether the City had established procedures to document the basis for classifying individuals as independent contractors rather than employees and evaluated whether the three individuals employed as independent contractors (not including the City Attorney) were correctly classified. We also determined whether the City contacted the Internal Revenue Service to request assistance in determining whether the individuals classified as independent contractors and discussed in our report No. 2015-009 should be classified as employees rather than independent contractors.
- Examined contract documents for two independent contractors who were paid \$28,333 and \$6,800, respectively, during the audit period, and the related invoices and supporting documentation for four payments totaling \$4,834 made pursuant to these contracts to determine whether:
 - The contracts were properly approved and specified a contract period.
 - Contractor invoices were complete and in accordance with the contract terms and conditions and properly reviewed and approved prior to payment.
- Evaluated City procedures over personal use of police vehicles, inquired of the Police Chief, and examined City records to determine whether City policies and procedures addressed reporting personal use of unmarked police vehicles in employees' gross compensation in compliance with the Internal Revenue Code.
- Inquired of City personnel to determine whether the City developed standardized procedures for documenting the preventative maintenance and periodic testing of diesel generators for the City's water and sewer system. We also examined City records supporting the City generator test and maintenance reports for the three diesel generators for the audit period to determine whether preventative maintenance and periodic testing was performed as required by Florida Department of Environmental Protection rules.

- Inquired of the City Clerk and examined City records supporting tangible personal property (TPP) to determine whether the City performed a physical inventory of TPP for the fiscal years ended September 30, 2013, through September 30, 2016, and reconciled the results of the physical inventory to the TPP records.
- Inquired of City personnel and examined City records to determine whether the City had adopted policies and procedures governing the acquisition, assignment, control, use, and disposition of motor vehicles, and timely renewal of vehicle registrations. We also examined TPP records and other City records to determine whether City procedures provided for complete and accurate accountability over City-owned motor vehicles.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45(2)(j), Florida Statutes, I have directed that this report be prepared to present the results of our follow-up procedures designed to determine the City's progress in addressing the findings and recommendations included in our operational audit of the City of Starke, report No. 2015 009.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Janice Mortimer
MAYOR

COMMISSIONERS:
Tommy Chastain
Janice Mortimer
Danny Nugent
Wilbur Waters
Travis Woods

CITY CLERK
Ricky Thompson

POLICE CHIEF
Jeff Johnson

CITY MANAGER
Bob Milner

City of Starke

June 29, 2018

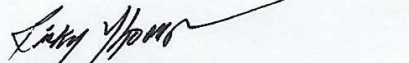
Ms. Sherrill F. Norman, CPA
Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Enclosed is a list of our responses to the preliminary and tentative audit findings and recommendations that may be included in your report on the operational audit of the City of Starke, Prior Audit Follow Up.

If you have any questions, please contact Ricky Thompson at (904) 964-5027 or rthompson@cityofstarke.org.

Sincerely,


Ricky Thompson
City Clerk

P.O. Drawer C, 209 N. Thompson Street, Starke, FL 32091
(904) 964-5027 | (904) 964-3998
www.cityofstarke.org

City of Starke
State Audit Follow-up Responses

Finding 1: Agreed.

Finding 2: The City will continue its efforts to implement adequate compensating controls throughout the payroll process.

Finding 3: The City will continue its efforts to establish comprehensive, written policies and procedures to assist in training new employees and help prevent instances of noncompliance and inadequate internal controls.

Finding 4: The City has developed a process where Commission minutes are approved at the next Commission meeting and posted on the City's website after approval.

Finding 5: Agreed.

Finding 6: The City is working towards reducing the number of bank accounts.

Finding 7: The City will develop procedures where the payroll warrant signing process is independently reviewed and approved.

Finding 8: The City will review its EFT agreement and consider the recommendations to be added to the agreement.

Finding 9: The City will continue its efforts to establish procedures that require all mail collections be recorded at the initial point of collection and checks restrictively endorsed upon receipt.

Finding 10: The City will implement written procedures to ensure compliance with the City Code and collection of revenues due to the City for business tax receipts.

Finding 11: The City will establish written procedures to ensure that customer deposit liability accounts are periodically reconciled to the customer deposits subsidiary ledger and the customer deposits bank account balance.

Finding 12: Agreed.

Finding 13: The City has been working to enforce procedures for providing limited payment extensions and disconnecting utility services as required by City ordinance and resolution. The City will also develop written procedures for review and approval of utility adjustments and ensure that the City ordinance is followed for water and sewer extensions, including refunds of extension cost, if any. The City will take appropriate actions to recover amounts improperly credited and refund amounts overcharged.

Finding 14: The City does account for fixed assets and long-term liabilities separately for each utility. The City will consider the rate-related recommendations from the electric system rate study and obtain a rate study for the gas utility.

Finding 15: The City will work towards establishing a policy indicating minimum target levels of working capital for its Enterprise Fund and will revisit the policy periodically for increases to the minimum working capital.

Finding 16: Agreed.

City of Starke
State Audit Follow-up Responses

Finding 17: The City will ensure that budget amendments are approved by resolution when necessary and that expenditures are limited to budgeted amounts as required by law.

Finding 18: Agreed.

Finding 19: The City will ensure that compensation for elected City officials is in accordance with applicable ordinances and will consult with legal counsel regarding the propriety of performance bonuses paid to elected City officials. The City will document the authority for safety pay bonuses for City employees or revise Ordinance No. 2014-0713 to eliminate the safety pay bonus provisions for City employees after consulting with legal counsel.

Finding 20: The City will adopt position descriptions that specify minimum education and experience requirements.

Finding 21: The City will adopt a classification plan and a pay plan to ensure that personnel administration and payroll costs are properly managed.

Finding 22: Agreed.

Finding 23: The City will perform overtime and staffing analyses to ensure the most cost efficient and effective use of human resources. The City will evaluate whether its practices are consistent with the Commission's intent and United States Department of Labor on-call guidelines and amend the Manual as necessary.

Finding 24: The City will enhance its credit card policy to require all employees utilizing City credit cards to sign an agreement evidencing their understanding of, and agreement with, the City's credit card policies and procedures. The City will continue efforts to ensure the submittal and retention of receipts for all City-issued credit card charges and to provide timely payments in full to avoid incurring additional fees and charges.

Finding 25: City personnel will work to ensure that requisitions and purchase orders are used to document the approval of purchases, and that a competitive selection process be used, as required by the City's purchasing policies. The City will also ensure that all expenditures are supported by vendor invoices, documentation of receipt, and evidence of review and approval for accuracy and completeness prior to payment.

Finding 26: The City will ensure that amounts paid for auditing services agree with contracted fees and, if additional services are required, document in City records the authorization for, and satisfactory receipt of, those services. The City will consult with legal counsel as to whether the City should take further action to collect the amount paid in excess of the contracted amount.

Finding 27: The City will ensure that all authorized projects utilizing engineering services are in writing, with a mutually agreed upon scope of work, completion date, and fee amount. The City will also include the prohibition against contingent fees clause in its agreements for engineering services.

Finding 28: Agreed.

Finding 29: Agreed.

City of Starke
State Audit Follow-up Responses

Finding 30: The City will strengthen its procurement procedures for other professional services to require that contracts be properly approved and specify the duties to be performed and ensure that consultants submit invoices in sufficient detail to evidence the dates, number of hours worked, and specific services performed.

Finding 31: The City will establish procedures to document the relevant facts and circumstances upon which workers are classified as independent contractors rather than employees. The City will consult with the IRS for assistance in determining whether certain individuals should be classified as employees rather than independent contractors, and if appropriate, amend payroll reporting and remit any required payroll taxes and retirement contributions for the employees to the appropriate Federal and State agencies.

Finding 32: The City will enhance its written policies and procedures to ensure compliance with applicable provisions of the Police Manual and Internal Revenue Code.

Finding 33: The City will enhance its procedures to ensure that diesel generator tests are conducted as required and that test and maintenance reports are timely and accurately prepared and maintained to evidence that proper preventative maintenance is performed and diesel generators are periodically tested at required intervals.

Finding 34: The City will ensure that physical inventories of TPP are conducted annually and that the inventory results are promptly reconciled to the property records.

Finding 35: The City will enhance written policies and procedures concerning the use of and accounting for City-owned motor vehicles to ensure adequate accountability for those assets.

4 Local Governmental Entities
(Failed to File AFR and/or Audit Report)

Local Government Financial Reporting – Materials Provided

1. **Overview:** Local Government Financial Reporting Requirements; Summary of Requirements and Enforcement Authority Related to the Joint Legislative Auditing Committee and Action Taken.
2. **Lists of Non-Filers:** Local Governments Not in Compliance with Financial Reporting Requirements and Staff Recommendations

List	Staff Recommendation
1. Counties	Take Action
2. Municipalities	Take Action (with one exception)
3. Special Districts (Independent)	Take Action (with one exception)
4. Special Districts (Dependent)	Take Action (some against the municipality that created the special district)
5. Special Districts	Take No Action

4. **Notifications:** From the Auditor General and the Department of Financial Services

Local Government Financial Reporting
Summary of Requirements and Enforcement Authority
Related to the Joint Legislative Auditing Committee and Action Taken

The Joint Legislative Auditing Committee (Committee) has the authority to enforce penalties against local governmental entities that fail to file certain reports, including an annual financial report and an annual financial audit report.

Annual Financial Report (AFR)

- All counties, municipalities, and independent special districts¹ were required to file an AFR with the Department of Financial Services (DFS) for FY 2016-17 no later than 9 months after the end of the fiscal year (June 30, 2018, for most entities)² [s. 218.32(1), F.S.]
- Dependent special districts are also required to file an AFR, but they may be required to file the report with their county or municipality rather than with DFS [s. 218.32(1)(a) & (b), F.S.]
- Either staff of the entity or a certified public accountant may complete the AFR; specified staff of the entity are required to complete the certification page
- DFS notifies the Committee of the entities that have failed to file the AFR [s. 218.32(1)(f), F.S.]
- Committee staff monitor the submission of late-filed AFRs and contact all entities that continue to be non-compliant³
- DFS will assist entity staff in completion of the electronic AFR once the entity has the information needed
- The Committee may schedule a hearing to determine if action should be taken [s. 11.40(2), F.S.]

Annual Financial Audit⁴ (audit)

- The following table shows the audit requirements for counties, municipalities, and special districts [s. 218.39(1), F.S.]:

Type of Entity	Audit Requirement
Counties	Annual audit required
Municipalities – Revenues or expenditures over \$250,000	Annual audit required
Municipalities – Revenues or expenditures between \$100,000 and \$250,000	Audit required if an audit has not been performed for the previous two fiscal years
Municipalities – Revenues or expenditures below \$100,000	No audit required
Special Districts – Revenue or expenditures over \$100,000	Annual audit required
Special Districts – Revenue or expenditure between \$50,000 and \$100,000	Audit required if an audit has not been performed for the previous two fiscal years
Special Districts – Revenue or expenditures below \$50,000	No audit required

¹ As of November 20, 2018, the Department of Economic Opportunity’s website lists 1,721 active special districts; 1,087 are independent and 634 are dependent. A dependent special district has at least one of several characteristics including: the governing board is the same as the one for a single county or single municipality or its governing board members are appointed by the governing board of a single county or single municipality. An independent special district has no dependent characteristics.

² All counties, municipalities, and most special districts follow a fiscal year of October 1st to September 30th.

³ Committee staff notify each entity that has failed to file an AFR. Correspondence is usually sent by certified mail, return receipt requested, informing the mayor, board chair, or registered agent, as appropriate, of the AFR requirement and possible penalty.

⁴ The primary focus of a financial audit is to examine the financial statements in order to provide reasonable assurance about whether they are fairly presented in all material respects.

- Audit reports for FY 2016-17 were required to be filed with the Auditor General no later than 9 months after the end of the fiscal year (June 30, 2018, for most entities) [s. 218.39(1), F.S.]
- Audits must be conducted by an independent certified public accountant (CPA) retained by the entity and paid from its public funds [s. 218.39(1), F.S.]⁵
- If an entity has not filed an AFR, the Auditor General may not have sufficient information to determine if an audit was required
- After June 30th, the Auditor General sends a letter to all entities that either *were* or *may have been* required to provide for an audit and file the audit report with the Auditor General but have failed to do so
- The Auditor General notifies the Committee of the entities that have failed to file an audit report [s. 11.45(7)(a), F.S.]
- Committee staff monitor the submission of late-filed audit reports and contact entities that continue to be non-compliant⁶
- The Committee may schedule a hearing to determine if action should be taken [s. 11.40(2), F.S.]

Committee Hearings: Authority and Action Taken

- The Committee is authorized to take action, as follows, against entities that fail to file an AFR or an audit report [s. 11.40(2), F.S.]:

Type of Entity	Penalty
Counties and Municipalities	Direct the Department of Revenue (DOR) and the DFS to withhold any funds not pledged for bond debt service satisfaction which are payable to the entity until the entity complies with the law. ⁷ Withholding begins 30 days after the agencies have received notification.
Special Districts	Notify the Department of Economic Opportunity (DEO) to proceed pursuant to provisions of ss. 189.062 or 189.067, F.S. If no registered agent information is available, the department may declare the special district to be inactive after public notice is provided in a local newspaper. For special districts created by Special Act of the Legislature, the Committee may convene a public hearing at the direction of the President and the Speaker. For special districts created by local ordinance, the chair or equivalent of the local general-purpose government may convene a public hearing within three months after receipt of notice of noncompliance from the Committee. For all special districts, once certain criteria is met, within 60 days of notification, or within 60 days after any extension the DEO has provided as authorized in law, the DEO files a petition for enforcement in Leon County circuit court to compel compliance. Note: The law was revised to authorize public hearings in 2014.

- During the years 2009 through 2017, the Committee directed action against a total of one county, 54 municipalities and 201 special districts (multiple times for some of these entities). Most of these entities filed the required reports either by the date Committee staff was directed to notify DFS, DOR, or the Department of Community Affairs (DCA)/DEO, as applicable, or within the timeframe the state agencies had to commence with action once notified by the Committee.⁸ When the required reports are filed prior to the effective date of the action, revenue is not withheld (counties, municipalities) and legal action does not occur (special districts).
- As a result of the Committee's action since 2009, revenue has been withheld from 21 municipalities (multiple times for a few of them), nine special districts were declared inactive, and a petition was filed in court against 23 special districts (multiple times for a few of them).

⁵ The Auditor General may conduct a financial audit of a local governmental entity, either under his own authority or at the direction of the Committee. If this occurs and the entity is timely notified, the entity is not required to engage a private CPA to conduct an audit. The Auditor General conducts very few audits of local governmental entities. Generally, if an audit is conducted it is an operational audit, not a financial audit.

⁶ Committee staff notify each entity that has failed to file an audit report. Correspondence is sent by certified mail, return receipt requested, informing the mayor, board chair, or registered agent, as appropriate, of the audit requirement and possible penalty.

⁷ The Committee has directed DOR and DFS to withhold revenue from a number of municipalities. DOR withholds Municipal Revenue Sharing and Half-Cent Sales Tax funds from municipalities that would otherwise receive these funds. Municipal Revenue Sharing funds are restored to the municipality if the municipality files the required report(s) prior to the end of the state's fiscal year. Half-Cent Sales Tax funds are redistributed and are not available to be restored to the municipality once a distribution is made. DFS has withheld grant funds from some municipalities. These funds are released to the municipality once the required report(s) are filed. The only county that the Committee has taken action against filed the required reports by the effective date of the Committee's action.

⁸DCA no longer exists; this function is now handled by DEO. DFS and DOR are provided 30 days and DEO is provided 60 days to commence with action once they receive the notification from the Committee.

List 1:

COUNTIES

	County	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
1	Dixie County	5	21	FY 2016-17 AFR and Audit Report	Committee staff received correspondence in December 2018 and January 2019 from the Dixie County Clerk of the Circuit Court regarding the status of the County's FY 2016-17 financial audit. The initial correspondence provided details as to the reasons the County's financial reports were late, including: (1) notification from the County's audit firm in preparing for the audit, that due to current workload the completion of the audit may be delayed until September 2018; (2) health issues experienced by the Finance Officer in late 2017 that limited her ability to work and access to the audit firm; and (3) complications created as a result of the turnover of two other key personnel in the Finance Department. It further stated that the City had been informed by the lead auditor that the audit would be completed in early 2019. The follow-up correspondence stated that the County's auditors have completed the audit of four of the six County entities, have almost completed the audit of the fifth entity, and are well underway on the audit of the final entity. The letter further stated that they are aiming to have the audit completed by late February 2019, and the County is asking for understanding and consideration when the Committee evaluates the need to take action.	Take action if not received by 3/31/2019

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
1	Town of Altha (Calhoun County)	3	7	FY 2016-17 AFR and Audit Report	<p>In late January 2019, Committee staff spoke with both the Chief of Police and the Town Attorney regarding the Committee's letter to the Town dated 10/31/2019. The following was discussed: (1) they had only recently been made aware of the letter; (2) Hurricane Michael had a devastating effect on the Town and the Town Clerk had been relieved of her duties in late-December 2018; (3) although the Town Council had authorized the Town Clerk to engage a separate CPA to assist in preparing the Town's records for the FY 2016-17 audit, this was not done; and (4) the Town currently has an accountant working to prepare and organize the financial records for the FY 2016-17 audit. Committee staff requested that the Town provide a follow-up email or letter regarding the Town's situation and an estimate of when the FY 2016-17 audit would be completed.</p> <p>On 2/1/2019, Committee staff received an email, with a letter attached, from the Town Attorney, which provided some background information about the Town, its basic operations, and certain constraints it faces on a day-to-day basis. In addition, the letter included detailed information about issues that have impacted the completion of the FY 2016-17 audit, including: (1) the devastating impact of Hurricane Michael on the Town; (2) the Town Clerk being relieved of her job by the Town Council in late December 2018 due to her "...role, or lack of role, in preparing for the audit" and other unnamed irregularities that were brought to light during the Town Council's review into the reasons for the lack of financial information to begin the audit; (3) resignation of the Mayor shortly thereafter; and (4) Town's search for a new Town Clerk. The letter further stated that: (1) an accountant is assisting with preparation of the financial information needed for the auditors to begin the FY 2016-17 audit, but it would take some time for him to get everything prepared and organized; (2) due to the auditors' workload during the upcoming tax season, it would be June 2019 before the Town's audit could begin and it would take 2-3 months to complete; (3) the auditors suggested that meanwhile the accountant should also be tasked with compiling the financial information for the FY 2017-18 audit, and stated that they could perform both audits beginning in June 2019; and (4) the Town Attorney is going to recommend that the Town Council take such action.</p>	Take action if not received by 8/31/2019

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
2	Town of Caryville (Washington County)	2	5	FY 2016-17 AFR and Audit Report	<p>In December 2017, when the Town had failed to submit the FY 2015-16 AFR and audit report, the Committee took the following action: approve the Town's FY 2016-17 audit in lieu of the FY 2015-16 audit (Note: Due to issues with the Town's records, it did not appear that an audit of FY 2015-16 could be completed). As a condition of waiving the earlier audit, the Committee required the Town: (1) to begin preparing its records for the audit, including hiring someone with expertise in governmental accounting to review records/assist with year-end closing entries and compile financial statements, if necessary; (2) attempt to find an auditor to perform the audit and provide evidence that it had done so; and (3) provide an engagement letter for auditing services to the Committee by 5/1/2018. The Committee further directed the Auditor General to perform the FY 2016-17 financial audit if the Town failed to find an auditor by 5/1/2018.</p> <p>As of February 2019, the Town failed to prepare its FY 2016-17 financial statements for an audit. Based on earlier conversations with the now former Town Clerk, the Town did not have staff with the expertise to prepare the financial statements and needed to hire outside help, but failed to do so. Also, the Town made no apparent attempt to hire an audit firm for the audit. In May 2018, the Auditor General began efforts to perform the financial audit; however, because the Town did not provide financial statements and other related information needed for the audit, the Auditor General has been unable to perform an audit.</p> <p>On 1/10/2019, the newly hired Town Clerk called the Committee office and requested copies of certain correspondence that the Committee had sent to the Town since December 2017. He also stated that the former Town Clerk had resigned on 12/10/2018 and the Council Chair resigned on 12/11/2018. On 1/11/2019, Committee staff provided the requested correspondence and requested that the Town Clerk review it with the acting Council Chair and provide a written status of the requested financial statements and related information needed for the Auditor General's office to begin the Town's 2016-17 fiscal year audit. On 1/29/2019, Auditor General staff also requested a written update regarding this same information. Neither Committee nor Auditor General staff have received any further communication from the Town.</p> <p>History: -Town was first added to Committee action list in March 2009. At that time, the last audit report submitted to Auditor General was for FY 1999-2000. DOR began withholding half-cent sales tax funds and municipal revenue sharing funds in excess of the minimum entitlement starting 4/15/2009. -In an effort to assist the Town in becoming compliant, in October 2010 Chair and Vice Chair approved sending a letter to Council Chair stating that Committee would accept an</p>	<p>(1) Notify the Auditor General to end efforts to perform the Town's financial audit for FY 2016-17 (2) Require the Town to obtain an audit firm to perform the FY 2016-17 audit (3) Take action against the Town on 2/15/2019 for its failure to comply with financial reporting requirements for FY 2016-17 (4) Direct the Auditor General to perform an operational audit of the Town</p>

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
	Town of Caryville (Washington County) (Continued)				<p>audit of FY 2009-10 in lieu of past due audits. The letter listed steps that needed to be completed in order for the Town to be in full compliance. In December 2011, an audit engagement letter for FY 2009-10 was provided to Committee staff, and DOR and DFS were notified to cease state action against Town.</p> <p>-Finally in February 2013, Town submitted an audit report for FY 2009-10. However, the opinion on the financial statements included major qualifications, due to lack of accounting records. At 2/11/2013 meeting, Committee approved to take no state action re: delinquent FY 2010-11 audit report and FY 2008-09 AFR. Decision for no state action was based on conversation with partner of CPA firm, who stated that state of accounting records for subsequent fiscal years is not any better, and he is not positive whether an audit of those fiscal years could be performed at all.</p> <p>-In February 2015, Committee approved to (1) take action if FY 2012-13 AFR and audit report were not submitted by a date certain and (2) direct Committee staff to notify the delegation members or staff regarding the situation; DOR and DFS were notified to begin enforcement. In April 2015 Committee staff met with delegation members' staff and provided information relating to the Town and the Committee's involvement to date. In November 2015, Committee approved to also take action relating to the FY 2013-14 delinquent financial reports, and DOR and DFS were notified of such.</p> <p>-In May 2016, based on information provided by the new Town Council Chair and based on his efforts to get the delinquent financial reports prepared and submitted, the Committee Chairs approved the following: (1) submission of FY 2012-13 reports before a stop enforcement letter will be sent to DOR and DFS and (2) delay of action for the FY 2013-14 reports until 9/30/16.</p> <p>-In June 2016, the Town finally submitted an audit report for FY 2012-13; however, the opinion on the financial statements once again included major qualifications, due to lack of accounting records. In September and December 2016, respectively, the Town submitted the FY 2013-14 and FY 2014-15 AFRs, respectively; because the AFR amounts were below the audit threshold, no audit was required for either year.</p> <p>- Since June 2017, Committee staff had spoken with the Town Clerk, who had been employed by the Town for at least the majority of the 2016-17 fiscal year, via telephone several times. The Town issued a Request for Proposal for audit services during the mid-2017, but as of mid-October had not been successful in engaging an auditor to perform the audit for the 2015-16 fiscal year. Committee staff were informed that the current Town Council Chair reached out to the CPA firm that performed the last audit in 2016 (for the 2012-13 fiscal year) and requested that it consider looking at the accounting records for, and consider performing the audit of, the 2015-16 fiscal year. However, the Town still owed the CPA firm for the audit performed in 2016 for the 2012-13 fiscal year, which created an independence impairment under auditing standards. In addition, there were major concerns about the completeness of the Town's financial records for the 2013-14, 2014-15, and 2015-16 fiscal years. There have been allegations that accounting records were removed from the Town Hall over the past year.</p>	

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
3	City of Gretna (Gadsden County)	3	8	FY 2016-17 Audit Report	Committee staff received a letter dated 12/9/2018, from the City Manager that provided a status update regarding the delinquent audit report. He stated that the City began the FY 2016-17 audit process in September 2018 and provided some specific details regarding delays in completing the audit fieldwork due to Hurricane Michael's impact on the City. He further stated that the City was on schedule to issue the financial audit report either the first or second week of January 2019, and, if the City experienced any other delays in completing the audit, the City would provide notice of such to the Committee. On 2/1/2019, Committee staff requested an updated status on the City's audit, and on 2/4/2019, Committee staff received a letter from the City Manager, stating that: (1) the auditor has completed all aspects of the audit, except for completion of the final review of the financial statements; (2) he expects the audit report on or before 2/22/2019; (3) the final audit report will be on the City Commission's agenda for acceptance at its next regular meeting on 3/5/2019; and (4) he respectfully requests a delay of any state action until at least 3/6/2019.	Take action if not received by 4/1/2019

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
4	City of Hampton (Bradford County)	5	19	FY 2016-17 AFR and Audit Report FY 2015-16 AFR and Audit Report FY 2014-15 AFR and Audit Report FY 2013-14 AFR and Audit Report	<p>The City submitted the FY 2012-13 AFR and audit report in April 2018. On 11/20/2018, Committee staff received an email from the City Clerk that provided a status update on the delinquent financial reports. She stated that the audits for FYs 2013-14, 2014-15, and 2015-16 were being performed simultaneously by the City's auditors, with an estimated completion by 12/31/2018. On 2/5/2019, Committee staff was copied on an email from the City's auditors to the City Clerk, stating that: (1) draft FY 2013-14 financial statements are expected to be provided in two weeks; (2) once the City has reviewed them and provided one additional item, they will be able to get the FYs 2014-15 and 2015-16 financials shortly thereafter; and (3) the FY 2016-17 audit will be scheduled for the summer, with completion in the fall of 2019.</p> <p>History: -The Committee had delayed action against the City since February 2015 relating to the FY 2012-13 AFR and Audit Report because all of the City records that cover FY 2012-13 were seized by the Bradford County Sheriff's Office and FDLE as part of a criminal investigation involving the former City Clerk. The City had been allowed some access to records that were held by the Sheriff's Office, but it had no access to the records held by FDLE. -For years, the auditors had not been able to complete the FY 2012-13 audit and issue the audit report because certain financial documentation necessary to do so were still in the hands of FDLE. The FY 2012-13 audit needed to be completed and the audit report issued prior to the start of the next fiscal year's audit. -In October 2017, Committee staff received several emails from the City Clerk that provided a status update on the delinquent reports. She stated that: (1) the City's Attorney was in the process of obtaining the City's financial records that FDLE has had during the duration of a court case related to the City's former clerk; (2) once the records were received the City would move forward with the completion of the 2012-13 fiscal year audit by the prior auditor (who had been paid); and (3) the City had allocated \$45,000 in the City's 2017-18 fiscal year budget for three additional audits (2013-14, 2014-15, and 2015-16 fiscal years) to bring the City current. -The City has provided the periodic status updates requested by the Committee.</p>	Continue to delay action and request the City to provide an updated status by 5/1/2019 if delinquent audit reports not received
5	Town of Noma (Holmes County)	2	5	FY 2016-17 AFR and Audit Report	No response received to 10/31/2018 letter.	Take action if not received by 2/15/2019
6	City of Opa-Locka (Miami-Dade County)	35, 36, 37, 38, 39, 40	100, 102, 103, 105, 107, 108, 109, 110, 111, 112,	FY 2016-17 AFR and Audit Report	On January 22, 2019, Committee staff received a telephone call from the City Manager and the Finance Director. The City Manager stated that he was recently hired and his objective for the call was to find out what needs to be done and what audit reports need to be submitted in order to the City to get into compliance. Committee staff discussed the delinquent AFRs and audit	If FY 2015-16 financial reports are submitted by March 31, 2019, then take action on FY 2016-17 if financial

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
	City of Opa-Locka (Miami-Dade County) (Continued)		113, 114, 115, 116, 117, 118, 119, 120	FY 2015-16 AFR and Audit Report	<p>reports for FY 2015-16 and FY 2016-17 and specifically asked about the status of the FY 2015-16 audit. They stated that the audit fieldwork was mostly complete, City staff had recently provided the last of the requested information to the auditor, and they were hopeful that the final part of audit fieldwork would be completed soon. They also stated that the City had no control over the auditor's schedule, but had requested that the audit be completed soon. Committee staff requested that the City keep the Committee updated on the progress of the audit.</p> <p>Committee staff note: In January 2017 and November 2017, the Committee took action against the City for its failure to file the 2014-15 and 2015-16 fiscal year reports, respectively. After the Committee's Chairs authorized two delays of action, the Department of Revenue and the Department of Financial Services were directed to begin withholding state funds from the City which it would otherwise be entitled to receive. This withholding began in September 2017 and, as of January 10, 2019, the City had lost approximately \$1.5 million, all of which has or will be reverted to the State's general revenue fund. The Committee has also directed the Auditor General to perform an operational audit of the City; this audit is in progress. The City submitted the 2014-15 fiscal year AFR and audit report in December 2018 and March 2018, respectively. The City is currently under state action relating to the 2015-16 fiscal year reports.</p> <p>History:</p> <ul style="list-style-type: none"> -In March 2016, the FBI raided City Hall in a corruption probe zeroing in on top City officials and administrators. The raid followed a two-year investigation into allegations of kickback schemes involving City officials and administrative staff. (Source: Miami Herald and other local media sources) -On 6/1/2016, Governor Scott issued Executive Order Number 16-135 which declared that the City is in a state of financial emergency based upon the conditions reported to the Governor by City officials (s. 218.503(3), F.S.). The Governor, on 6/9/2016, appointed a 9-member financial emergency oversight board to oversee the activities of the City (s. 218.503(3)(g)1., F.S.). -Since mid-2016, one City Commissioner, two City administrative staff, and the Mayor's son have plead guilty to federal bribery and extortion conspiracy charges. (Source: Miami Herald and other local media sources) -To date, the FBI investigation is still ongoing. -Despite attempts by Committee staff to communicate with City officials and staff, either verbally, in writing, or through the financial emergency oversight board, it has been a struggle to get any response from the City throughout this time period until recently. 	reports not received by 5/31/2019. Otherwise, take action on FY 2016-17 on 4/1/2019.

List 2:

MUNICIPALITIES

	Municipality (County)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
7	City of Pahokee (Palm Beach County)	25, 29, 30, 31	81, 82, 85, 86, 87, 88, 89, 90, 91	FY 2016-17 AFR and Audit Report	On 2/1/2019, Committee staff received emails from both the City's financial consultant and the City's auditors regarding the status of the City's financial audit. The email from the City's financial consultant stated that he and City staff are working on a few things for the auditors and should have the items to them by Monday, the 4th, or over the weekend. The email from the City's auditors provided the following status: (1) the audit is currently in progress and is approximately 85% complete; (2) there are three significant areas (grants, capital assets of the governmental activities, and liability for compensated absences) and a few other minor items that have not been completed; (3) the City is currently working on providing the information needed to complete the audit; and (4) if the City provides the needed information by early to mid-February, they should be able to issue the audit report before the end of February.	Take action if not received by 3/1/2019
8	City of Vernon (Washington County)	2	5	FY 2016-17 AFR and Audit Report	No response received to 10/31/2018 letter. History: - The Committee took action against the Town in November 2017 for its failure to submit the FY 2015-16 AFR and audit report. This audit, which was due 6/30/2017, was submitted in October 2018. The auditors issued a disclaimer of opinion for the FY 2015-16 audit. -As a result of the Committee's action and the lengthy delay in submitting the delinquent reports, the Town lost approximately \$29,974 in State funds that it would have ordinarily have received. During the time of the Committee's action against the Town, the Committee's Chairs authorized the release of grant funds to the Town for infrastructure projects. The release of these funds was approved based on the request of DEO and DEP, the State agencies responsible for administering the grants. -Committee staff spent considerable time in verbal and written correspondence with Town staff and the auditors during this timeframe and emphasized to Town staff that the Town needed to promptly respond to any future correspondence from the Committee relating to delinquent financial reports.	Take action if not received by 2/15/2019; however, allow DEP and DEO to pay the City for grant projects.

List 3:

SPECIAL DISTRICTS (INDEPENDENT)

(Some special district boundaries are difficult to determine if they do not include an entire county. Therefore, for most Community Development Districts, and if applicable, some additional special districts, all House and Senate districts in the county in which these special districts are located are listed.)

	District (County; Creation Method)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
1	Baker Fire District (Okaloosa County; Special Act)	1, 2	3, 4	FY 2016-17 AFR and Audit Report	<p>On 1/7/2019, Committee staff received an email from the District's treasurer, which stated that: (1) he is working on getting the information to the auditors for completion of the FY 2016-17 audit; (2) he needs to contact them for an update on a completion date; (3) the District is a good custodian of the public funds that it receives, but does not have anyone on the Board with the time or proper background to do the bookkeeping; (4) the District has taken steps by recently appointing a new treasurer and hiring a bookkeeper to get the District up-to-date on its accounting; and (5) the District asks that the Committee grant it additional time to complete the audit.</p> <p>Committee staff sent an email response to him, requesting that he contact the District's auditors as soon as possible and provide a detailed status of the audit (percentage of audit fieldwork completed, any pending information not yet provided to the auditors, and an estimated date that the audit report is expected to be issued) to the Committee. An email response was received back, stating that he would provide the required information as soon as he could.</p> <p>On 2/4/2019, Committee staff received an email from the District's treasurer, which stated that: (1) all information related to the FY 2016-17 audit has now been turned over to the auditors; (2) due to the auditors' heavy work load during tax season, the estimated to complete the District's FY 2016-17 audit is 5/1/2019; and (3) the District is on track to turn in the FY 2017-18 financial reports to meet the required reporting deadline (which is 6/30/2019 per law).</p>	Take action if not received by 5/1/2019
2	Belmont Lakes Community Development District (Broward County; Local Ordinance)	29, 32, 33, 34, 35	92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019

List 3:

SPECIAL DISTRICTS (INDEPENDENT)

(Some special district boundaries are difficult to determine if they do not include an entire county. Therefore, for most Community Development Districts, and if applicable, some additional special districts, all House and Senate districts in the county in which these special districts are located are listed.)

	District (County; Creation Method)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
3	Campbellton-Graceville Hospital District (Jackson County; Special Act)	2	5	FY 2016-17 AFR and Audit Report FY 2015-16 AFR and Audit Report FY 2014-15 AFR and Audit Report FY 2013-14 AFR and Audit Report	<p>Legislation passed during the 2018 Legislative Session relating to the District (HB 1449, now Chapter 2018-188, Laws of Florida): (1) authorizes the District to complete the sale of the Campbell-Graceville Hospital facility to Northwest Florida Healthcare, Inc.; (2) requires that, upon completion of such sale, the District remain in full operation and possession of all powers to be exercised solely to wind down its affairs; and (3) states that, on the date the District closes on the authorized sale, Sections 4 and 5 of the Districts enacting law (Chapter 69-2290, Laws of Florida) are repealed and the authority of the Board of County Commissioners of Jackson County to impose any ad valorem taxes for maintenance and operations of the District is terminated.</p> <p>In late January and early February 2019, Committee staff spoke with and received correspondence from the DEO General Counsel's office regarding the status of action against the District. The status is as follows: (1) the Campbellton Graceville Hospital Corporation's Chapter 11 Bankruptcy is still pending; and (2) the Jackson County Official Records indicate that the hospital property was sold on 8/1/2018, which appears to further the legislation from last session (HB 1449).</p> <p>History: -The Committee, at its 11/2/2015 meeting, directed DEO to take action against the District for failure to file the AFR and audit report for the 2013-14 fiscal year. DEO filed a petition for enforcement in the Leon County Circuit Court in February 2016, and the Circuit Judge signed the Order of Final Judgment on 11/6/2016. The District failed to file the delinquent financial reports as ordered, so DEO published a "Proposed Notice of Inactive Status" in the local paper on 11/17/2016. The District objected and filed a "Petition for Formal Administrative Hearing" on 12/6/2016. A formal hearing with the Division of Administrative Hearings was scheduled for 2/24/2017. -On 7/27/2017 Committee staff received an email from DEO stating that Hospital had closed on June 30th, but the clinic remained open. Neither Committee staff nor the Governor's Office were notified by the District of this condition of financial emergency, as required by Section 218.503(3), F.S. -In August 2017, Committee staff were informed that the Campbellton Graceville Hospital Corporation had filed bankruptcy. The Attorney General's Office has had some involvement regarding the bankruptcy proceedings.</p>	Delay state action on FY 2016-17 delinquent financial reports and have staff monitor District's progress in complying with terms of Chapter 2018-188, Laws of Florida, to "wind down its affairs" now that the Hospital property has been sold.

List 3:

SPECIAL DISTRICTS (INDEPENDENT)

(Some special district boundaries are difficult to determine if they do not include an entire county. Therefore, for most Community Development Districts, and if applicable, some additional special districts, all House and Senate districts in the county in which these special districts are located are listed.)

	District (County; Creation Method)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
4	Clearwater Cay Community Development District (Pinellas County; Local Ordinance)	16, 19, 24	64, 65, 66, 67, 68, 69, 70	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019
5	Eastpoint Water and Sewer District (Franklin County; Special Act)	3	7	FY 2016-17 AFR and Audit Report	DEO forwarded to Committee staff an email received from the District on 12/26/2018, which stated that: (1) the District failed to meet the required deadline as a result of its accounting database becoming corrupted and the failure of its online backup, as well as the effects of Hurricane Michael on the area; (2) the District has been able to restore the database, has changed the manner in which documents are stored for auditing purposes, and believes this will prevent further non-compliance; and (3) the anticipated completion date for the financial reports is no later than 1/30/2019. Neither DEO nor Committee staff have received any further communication from the District.	Take action if not received by 3/1/2019
6	Estuary Community Development District, The (Hillsborough County; Local Ordinance)	18, 19, 20, 21	57, 58, 59, 60, 61, 62, 63, 64, 70	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019
7	Golden Lakes Community Development District (Polk County; Local Ordinance)	20, 22, 26	39, 40, 41, 42, 56	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019
8	Green Corridor Property Assessment Clean Energy (PACE) District (Miami-Dade County; General Law)	35, 36, 37, 38, 39, 40	100, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019
9	Hamilton County Development Authority (Hamilton County; Special Act)	3	10	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019

List 3:

SPECIAL DISTRICTS (INDEPENDENT)

(Some special district boundaries are difficult to determine if they do not include an entire county. Therefore, for most Community Development Districts, and if applicable, some additional special districts, all House and Senate districts in the county in which these special districts are located are listed.)

	District (County; Creation Method)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
10	Martin Soil and Water Conservation District (Martin County; General Law)	25	82, 83	FY 2016-17 AFR and Audit Report	On 12/29/2018, Committee staff received an email from the District's registered agent, which states that: (1) since November 2017, he has been deployed as a Reservist in Environmental and Historical Preservation Cadre of FEMA, and as such was unable to fulfill his obligations in regard to the timely filing of the District's FY 2016-17 AFR; (2) he is no longer an elected official of the District; (3) he is requesting an extension of 60 days so that he may transition the operations of the District to the newly elected representative; and (4) the District has no source of revenue and has physical assets consisting of a computer, monitor and printer, but does house Martin County Aerials dating back to 1940 and is provided office space and storage by the Martin County Property Appraiser.	Take action if not received by 3/1/2019
11	Pembroke Harbor Community Development District (Broward County; Local Ordinance)	29, 32, 33, 34, 35	92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105	FY 2016-17 AFR and Audit Report	No response received to 11/1/2018 letter.	Take action if not received by 2/15/2019
12	Yellow River Soil and Water Conservation District (Okaloosa County; General Law)	1, 2	3, 4	FY 2016-17 AFR and Audit Report	DEO forwarded to Committee staff on 1/2/2019, an email from a District representative stating that the District is asking for an extension until 3/31/2019, to submit the required financial reports for FY 2016-17. The email stated that the District has had a rough year that included relocation of its location after 27 years, the death of its Chair, and the search for a new CPA to perform the audit. The District now has a new CPA and the audit process is expected to begin in January 2019.	Take action if not received by 4/1/2019.

List 4:

SPECIAL DISTRICTS (DEPENDENT)

(Some special district boundaries are difficult to determine if they do not include an entire county. Therefore, for most Community Development Districts, and if applicable, some additional special districts, all House and Senate districts in the county in which these special districts are located are listed.)

	District (County; Creation Method)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
1	Ali-Baba Neighborhood Improvement District (Miami-Dade County; Local Ordinance)	35, 36, 37, 38, 39, 40	100, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120	FY 2016-17 AFR and Audit Report FY 2015-16 AFR and Audit Report	The District is a component unit of the City of Opa-locka, and its AFR is linked to the City's AFR, which cannot be submitted until the City's FY 2016-17 audit is completed. [See List 2 for the status of the City's audit.]	No action on the special district since the City of Opa-locka is responsible for submitting the District's AFR. [Note: Take action on City of Opa-locka as specified in List 2.]
2	East-West Neighborhood Improvement District (Miami-Dade County; Local Ordinance)	35, 36, 37, 38, 39, 40	100, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120	FY 2016-17 AFR and Audit Report FY 2015-16 AFR and Audit Report	The District is a component unit of the City of Opa-locka, and its AFR is linked to the City's AFR, which cannot be submitted until the City's FY 2016-17 audit is completed. [See List 2 for the status of the City's audit.]	No action on the special district since the City of Opa-locka is responsible for submitting the District's AFR. [Note: Take action on City of Opa-locka as specified in List 2.]
3	Niles Garden Neighborhood Improvement District (Miami-Dade County; Local Ordinance)	35, 36, 37, 38, 39, 40	100, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120	FY 2016-17 AFR and Audit Report FY 2015-16 AFR and Audit Report	The District is a component unit of the City of Opa-locka, and its AFR is linked to the City's AFR, which cannot be submitted until the City's FY 2016-17 audit is completed. [See List 2 for the status of the City's audit.]	No action on the special district since the City of Opa-locka is responsible for submitting the District's AFR. [Note: Take action on City of Opa-locka as specified in List 2.]

List 4:

SPECIAL DISTRICTS (DEPENDENT)

(Some special district boundaries are difficult to determine if they do not include an entire county. Therefore, for most Community Development Districts, and if applicable, some additional special districts, all House and Senate districts in the county in which these special districts are located are listed.)

	District (County; Creation Method)	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
4	Opa-Locka Community Redevelopment Agency (Miami-Dade County; Local Ordinance)	35, 36, 37, 38, 39, 40	100, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120	FY 2016-17 AFR and Audit Report FY 2015-16 AFR and Audit Report	The Agency is a component unit of the City of Opa-locka, and its AFR is linked to the City's AFR, which cannot be submitted until the City's FY 2016-17 audit is completed. [See List 2 for the status of the City's audit.]	No action on the special district since the City of Opa-locka is responsible for submitting the Agency's AFR. [Note: Take action on City of Opa-locka as specified in List 2.]
5	Tarawood Special Dependent Tax District (Hillsborough County; Local Ordinance)	18, 19, 20, 21	57, 58, 59, 60, 61, 62, 63, 64, 70	FY 2016-17 AFR and Audit Report* (*-if audit threshold met)	DEO forwarded to Committee staff an email received from the District's registered agent on 10/15/2018, which stated that, as soon as he received DEO's letter in September 2018, he contacted the accountant that the District had used in the past, who was willing to compile the District's financial report. The accountant stated that, while it would be difficult to complete the report by DEO's October 15th deadline because of other work-related deadlines, the report could be completed in the next few weeks, before October 31st. The registered agent stated that he had entered revenue and expenditure amounts in the AFR, but was unable to complete the AFR without the financial report from the accountant. He requested that DEO acknowledge the effort he had made to reach compliance and know that he had asked the accountant for a financial report for FY 2017-18 so the District is proactive for the next cycle. He further stated that, as soon as he had a copy of the report, he would log on and complete the AFR and email DEO with notification. DEO also forwarded to Committee staff an email reply to the registered agent, stating that the registered agent's email would be forwarded to the Committee for its consideration in determining whether to proceed with further state action against the District and requesting that DEO be kept updated on the District's progress to file the AFR so DEO in turn could keep the Committee updated. Neither DEO nor Committee staff have received any further communication from the District.	Take action if not received by 2/15/2019

List 5:

TAKE NO ACTION

	Take No Action	Senate District	House District	Financial Report(s) Not Submitted	Comments	Staff Recommendation
1	Santa Rosa Bay Bridge Authority (Santa Rosa County; Special Act)	1	2, 3	<p>AFR and Audit Report* for: FY 2016-17 FY 2015-16 FY 2014-15 FY 2013-14 FY 2012-13 FY 2011-12 FY 2010-11</p> <p>Audit Report for: FY 2009-10 FY 2008-09</p> <p>(*=if audit threshold met)</p>	<p>Since 2/12/2015, DEO's records have shown the Authority's registered agent name and address as "Unknown." DEO has determined that the Authority cannot be declared "Inactive" at this time.</p> <p>Neither DEO nor Committee staff have received any communication from the District in several years.</p> <p>History: -Since at least 2009, the Committee has approved to delay action until a later date since the Authority only has restricted funds, which cannot be used to pay for an audit. DOT staffs the day-to-day operations of Authority, and until sometime in 2013 the DOT IG's Office compiled the financial statements and submitted the AFR for the Authority. -On 6/30/2011, the Authority was unable to make its \$5 million bond payment, and the trustee alerted the bondholders to the default. Since the bonds were not backed by the full faith and credit of the State, the State is not liable for the debt. DOT continues to operate and maintain the bridge. -In November 2013, the Authority's registered agent stated that DOT and the bond trustee had agreed to each pay half of cost for an independent reviewer/consultant to help review financial information and get AFRs submitted. -In January 2015, DEO forwarded an email from the Authority's registered agent of record to Committee staff. He stated that he had resigned from the Authority's Board in December 2014, following other members' resignations by about two months. Mellon Bank had sent a directive for the Board to increase the bridge toll from \$3.75 to \$5; if such action had not been taken within 30 days, they were going to circumvent the Board and direct the State to raise the toll. He stated that he resigned because he had long said that he would not serve through another unwarranted toll increase and he meant it. DEO removed him as the registered agent in its records and requested, if he was aware or became aware of anyone else who was handling registered agent responsibilities for the Authority, that he let DEO know or ask the person to contact DEO.</p>	Continue to delay action

From: [DEREK NOONAN](#)
To: [Mayfield, Debbie](#); [Sullivan, Jennifer](#)
Cc: [Dubose, Kathy](#); [White, Deborah](#)
Subject: 2016-17 FY Section 11.45(7)(a) FS, Notification
Date: Thursday, October 04, 2018 3:10:40 PM
Attachments: [Attachments A and B for JLAC.xlsb](#)

Pursuant to Section 11.45(7)(a), Florida Statutes, this e-mail is to notify you of the local governmental entities that, as of October 2, 2018, were not in compliance with the Section 218.39, Florida Statutes, audit report submission requirement for the 2016-17 fiscal year. A separate notification regarding district school boards, charter schools, and charter technical career centers that failed to provide for an audit for the 2016-17 fiscal year was made to you in an e-mail dated May 25, 2018.

The attachments include a listing of 69 local governmental entities required to obtain an audit (Attachment A) and a listing of 21 entities that may have been required to obtain an audit (Attachment B).

If you have any questions regarding this matter or require additional information, please do not hesitate to contact me.

Derek H. Noonan, Audit Supervisor
Auditor General, State of Florida
111 West Madison Street, Rm 401-P
Tallahassee, FL 32399-1450
Office (850) 412-2864
FAX (850) 488-6975

Note: In the event your response contains information that may be considered sensitive or confidential pursuant to Federal or State law, please do not send that information via e-mail. Please contact me to make alternative arrangements to provide the information.

**Local Governmental Entities
2016-17 Fiscal Year Audit Reports
Required - Not Received**

Attachment A

COUNTIES		Entity ID	Note
1	Baker County	C00200	A
2	Dixie County	C01500	A
3	Flagler County	C01700	B
4	Gilchrist County	C02000	B
5	Jefferson County	C03200	B

MUNICIPALITIES			
1	Altha, Town of	M00400	B
2	Apalachicola, City of	M00600	B
3	Biscayne Park, Villages of	M03100	A
4	Callahan, Town of	M04700	B
5	Cross City, Town of	M07700	A
6	DeFuniak Springs, City of	M08700	B
7	Glen Ridge, Town of	M12000	B
8	Gretna, City of	M13200	B
9	Hampton, City of	M13900	B
10	Hastings, Town of	M14000	B
11	Lake Park, Town of	M19600	B
12	Loxahatchee Groves, Town of	M21550	B
13	Manalapan, Town of	M22300	B
14	Mangonia Park, Town of	M22400	A
15	New Port Richey, City of	M25300	B
16	Noma, Town of	M25700	A
17	Opa-locka, City of	M27400	A
18	Pahokee, City of	M28200	B
19	Pembroke Park, Town of	M29600	A
20	Ponce de Leon, Town of	M30900	B
21	Sebastian, City of	M33100	A
22	Springfield, City of	M33100	B
23	Starke, City of	M35200	B
24	Vernon, City of	M37000	B
25	Wildwood, City of	M38700	B
26	Yankeetown, Town of	M39600	B
27	Zephyrhills, City of	M39700	B

INDEPENDENT SPECIAL DISTRICTS			
1	Amelia Island Mosquito Control District	D01500	A
2	Beach Community Development District	D04875	A
3	Belmont Lakes Community Development District	D05060	A
4	Big Bend Water Authority	D05190	A
5	Campbellton-Graceville Hospital	D09400	A
6	Champion's Reserve Community Development District	D11955	B
7	Clearwater Cay Community Development District	D16490	B
8	Collier Soil and Water Conservation District	D17700	A
9	CrossCreek Community Development District	D19875	B
10	Dorcas Fire District	D22900	B
11	Eastpoint Water and Sewer District	D25500	A
12	Florida Green Finance Authority	D27685	B

**Local Governmental Entities
2016-17 Fiscal Year Audit Reports
Required - Not Received**

Attachment A

13	Golden Lakes Community Development District	D31200	A
14	Green Corridor Property Assessment Clean Energy (PACE) District	D31785	A
15	Hamilton County Development Authority	D32700	B
16	Heritage Plantation Community Development District	D34173	A
17	Hillsborough County Public Transportation Commission	D36100	A
18	Hollywood Beach Community Development District I	D36870	A
19	Majorca Isles Community Development District	D48250	B
20	Monterra Community Development District	D52685	A
21	Nature Coast Regional Water Authority	D53620	A
22	Northeast Florida Regional Transportation Commission	D56350	A
23	Pembroke Harbor Community Development District	D63950	A
24	South Dade Soil and Water Conservation District	D74000	B
25	Three Rivers Regional Library System	D82250	B
26	Wyld Palms Community Development District	D89840	B

DEPENDENT SPECIAL DISTRICTS

1	Apalachicola Community Redevelopment Agency	D01900	B
2	City of Sebastian Community Redevelopment Agency	D15803	A
3	Community Redevelopment Agency of the Town of Lake Park	D18355	B
4	Leon County Educational Facilities Authority	D46600	B
5	Millers Creek Special District	D52055	B
6	New Port Richey Community Redevelopment Agency	D53800	B
7	Opa-locka Community Redevelopment Agency	D58570	B
8	Springfield Community Redevelopment Agency	D76030	B
9	Starke Community Redevelopment Agency	D78000	B
10	Wildwood Community Redevelopment Agency	D89400	B
11	Zephyrhills Community Redevelopment Agency	D90300	B

69 Total Counties, Municipalities and Special Districts

NOTES

- A Based on previous audit reports or other financial reports filed by the entity, the entity was required to provide for an audit for the 2016-17 fiscal year. Although we mailed a letter to each entity requesting confirmation that an audit was performed or was in progress, these entities did not respond to our letter.
- B As of October 2, 2018, we had not received an audit report for the 2016-17 fiscal year; however, the entity confirmed that an audit was in progress.

Local Governmental Entities
 2016-17 Fiscal Year Audit Reports
 May Have Been Required - Not Received

Attachment B

		Entity ID	Last Fiscal Year Audit Received
MUNICIPALITIES			
1	Belleair Shore	M02800	2015-16
2	Carryville, Town of	M05300	2012-13
3	Esto, Town of	M10100	2014-15

		Entity ID	Last Fiscal Year Audit Received
INDEPENDENT SPECIAL DISTRICTS			
1	Baker Fire District	D03200	2015-16
2	Entrada Community Development District (Pinellas County)	D25955	A
3	Estuary Community Development District, The	D26650	2015-16
4	Hastings Drainage District	D33400	A
5	Martin Soil and Water Conservation District	D50100	A
6	Pine Tree Water Control District (Palm Beach County)	D64700	2015-16
7	Santa Rosa Bay Bridge Authority	D70900	A
8	Sunbridge Community Development District I (Dissolved 11/2/17)	D78740	A
9	Volusia Soil and Water Conservation District	D86500	2014-15
10	Yellow River Soil and Water Conservation District	D90100	2013-14

		Entity ID	Last Fiscal Year Audit Received
DEPENDENT SPECIAL DISTRICTS			
1	Ali-Baba Neighborhood Improvement District	D00800	2013-14
2	Atlantis Safe Neighborhood Improvement District	D02500	2015-16
3	Century Community Redevelopment Agency (Established 9/11/17)	D11905	A
4	East-West Neighborhood Improvement District	D25300	2013-14
5	Niles Garden Neighborhood Improvement District	D54200	2013-14
6	Pasco County Health Facilities Authority	D62900	A
7	Tarawood Special Depaendent Tax District	D81300	A
8	West Atlantic Avenue Neighborhood Improvement District	D87400	2014-15

21 Total Municipalities and Special Districts

NOTE

A No reports received for the 2011-12 through 2015-16 fiscal years.

Notification from the Department of Financial Services (DFS)

From: [Cleary, Heather](#)
To: [White, Deborah](#)
Cc: [Gaskins, Jack](#); [White, Danta](#); [Brown, Lucas](#)
Subject: Non-Compliant Report as of 10/8/2018
Date: Monday, October 08, 2018 4:16:34 PM
Attachments: [image001.png](#)
[image002.png](#)
[JLAC Report 10.8.18.xlsx](#)

Debbie,

Attached is the Non-Compliant Report as of 10/8/2018 in accordance with Section 218.32, F.S.

Please let us know if you have any questions.

Thank you,

Heather Cleary, FCCM

Financial Administrator
Bureau of Financial Reporting
Division of Accounting & Auditing
Office of Chief Financial Officer Jimmy Patronis
(850)413-5674

[Subscribe](#) to Weekly Rundown, CFO Patronis' weekly newsletter



Please note that Florida has a broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

Non-Compliant Local Government Entities per S.218.32,F.S.

For Fiscal Year 2017

Report as of 10/08/2018

LOGGER Entity ID	Entity Name	Unit Type	Primary Government Entity ID	Primary Government Name	Unit Status	District Dependency	Independently Reported
100015	Dixie	County			Active		
100018	Flagler	County			Active		
100033	Jefferson	County			Active		
200004	Altha	City			Active		
200006	Apalachicola	City			Active		
200012	Atlantis	City			Active		
200028	Belleair Shore	City			Active		
200047	Callahan	City			Active		
200053	Caryville	City			Active		
200058	Century	City			Active		
200064	Clermont	City			Active		
200077	Cross City	City			Active		
200086	DeFuniak Springs	City			Active		
200101	Esto	City			Active		
200120	Glen Ridge	City			Active		
200139	Hampton	City			Active		
200140	Hastings	City			Dissolved		
200141	Havana	City			Active		
200197	Lake Park	City			Active		
200208	Lawtey	City			Active		
200224	Manalapan	City			Active		
200249	Montverde	City			Active		
200255	New Port Richey	City			Active		
200259	Noma	City			Active		
200276	Opa-locka	City			Active		
200284	Pahokee	City			Active		
200298	Pembroke Park	City			Active		
200310	Ponce De Leon	City			Active		
200317	Quincy	City			Active		
200329	St Leo	City			Active		
200352	Springfield	City			Active		
200353	Starke	City			Active		
200370	Valparaiso	City			Active		
200372	Vernon	City			Active		
200378	Wausau	City			Active		
200399	Yankeetown	City			Active		
200400	Zephyrhills	City			Active		
300021	Hastings Drainage District	Special District			Active	Independent	



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

Non-Compliant Local Government Entities per S.218.32,F.S.

For Fiscal Year 2017

Report as of 10/08/2018

LOGGER Entity ID	Entity Name	Unit Type	Primary Government Entity ID	Primary Government Name	Unit Status	District Dependency	Independently Reported
300136	Collier Soil and Water Conservation District	Special District			Active	Independent	
300157	South Dade Soil and Water Conservation District	Special District			Active	Independent	
300176	Eastpoint Water and Sewer District	Special District			Active	Independent	
300191	Hamilton County Development Authority	Special District			Active	Independent	
300249	Campbellton-Graceville Hospital District	Special District			Active	Independent	
300330	Martin Soil and Water Conservation District	Special District			Active	Independent	
300341	Ocean Highway and Port Authority	Special District			Active	Independent	
300343	Baker Fire District	Special District			Active	Independent	
300356	Yellow River Soil and Water Conservation District	Special District			Active	Independent	
300398	Pine Tree Water Control District (Palm Beach County)	Special District			Active	Independent	
300430	Golden Lakes Community Development District	Special District			Active	Independent	
300461	Santa Rosa Bay Bridge Authority	Special District			Active	Independent	
300479	Taylor County Development Authority	Special District			Active	Independent	
300488	Volusia Soil and Water Conservation District	Special District			Active	Independent	
300570	East Hendry County Drainage District	SEE NOTE BELOW	100026	Hendry	Active	Dependent	
300622	Tarawood Special Dependent Tax District	Special District	100029	Hillsborough	Active	Dependent	Independently Reported
300642	Leon County Educational Facilities Authority	Special District	100037	Leon	Active	Dependent	Independently Reported
300755	High Springs Community Redevelopment Agency	SEE NOTE BELOW	200146	High Springs	Active	Dependent	
300761	Starke Community Redevelopment Agency	Special District	200353	Starke	Active	Dependent	
300816	Hialeah Redevelopment Agency	SEE NOTE BELOW	200144	Hialeah	Active	Dependent	
300835	Ali-Baba Neighborhood Improvement District	Special District	200276	Opa-Locka	Active	Dependent	
300836	East-West Neighborhood Improvement District	Special District	200276	Opa-Locka	Active	Dependent	
300837	Niles Garden Neighborhood Improvement District	Special District	200276	Opa-Locka	Active	Dependent	
300849	Apalachicola Community Redevelopment Agency	Special District	200006	Apalachicola	Active	Dependent	
300912	Atlantis Safe Neighborhood Improvement District	Special District	200012	Atlantis	Active	Dependent	
300930	New Port Richey Community Redevelopment Agency	Special District	200255	New Port Richey	Active	Dependent	
300958	City of Lake Wales Library Board	SEE NOTE BELOW	200199	Lake Wales	Active	Dependent	
301143	Belmont Lakes Community Development District	Special District			Active	Independent	
301149	Quincy Community Redevelopment Agency	Special District	200317	Quincy	Active	Dependent	
301176	Zephyrhills Community Redevelopment Agency	Special District	200400	Zephyrhills	Active	Dependent	
301473	Heritage Plantation Community Development District	Special District			Active	Independent	
301493	Monterra Community Development District	Special District			Active	Independent	
301537	Downtown Clermont Redevelopment Agency	Special District	200064	Clermont	Active	Dependent	
301562	Clearwater Cay Community Development District	Special District			Active	Independent	
301568	CrossCreek Community Development District	Special District			Active	Independent	
301660	Community Redevelopment Agency of the Town of Lake Park	Special District	200197	Lake Park	Active	Dependent	
301676	Entrada Community Development District (Pinellas County)	Special District			Dissolved	Independent	
301734	Springfield Community Redevelopment Agency	Special District	200352	Springfield	Active	Dependent	

NOTE: ENTITY SHOULD NOT HAVE BEEN INCLUDED ON THIS NOTIFICATION, PER DFS IN AN EMAIL DATED 11/6/2018.



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

Non-Compliant Local Government Entities per S.218.32,F.S.

For Fiscal Year 2017

Report as of 10/08/2018

LOGGER Entity ID	Entity Name	Unit Type	Primary Government Entity ID	Primary Government Name	Unit Status	District Dependency	Independently Reported
301749	Valparaiso Cable Authority	Special District	200370	Valparaiso	Active	Dependent	
301768	Wyld Palms Community Development District	Special District			Active	Independent	
301797	Big Bend Water Authority	Special District			Active	Independent	
301802	Community Redevelopment Agency of the Town of Havana	Special District	200141	Havana	Active	Dependent	
301827	Pembroke Harbor Community Development District	Special District			Active	Independent	
301880	Midtown Orlando Community Development District	Special District			Dissolved	Independent	
301910	Hollywood Beach Community Development District I	Special District			Active	Independent	
301962	Estuary Community Development District, The	Special District			Active	Independent	
302048	Green Corridor Property Assessment Clean Energy (PACE) District	Special District			Active	Independent	
302081	Opa-Locka Community Redevelopment Agency	Special District	200276	Opa-Locka	Active	Dependent	
302102	Pace Fire Rescue District	Other Entity			Active	Independent	
302146	Century Community Redevelopment Agency	Special District	200058	Century	Active	Dependent	
500018	Withlacoochee Regional Planning Council	Other Entity			Active	Independent	
500020	Florida Ports Financing Commission	Other Entity			Active	Independent	
500021	Florida Intergovernmental Financing Commission	Other Entity			Active	Independent	
500061	Central Florida Fire Academy	Other Entity			Active		
500083	Consolidated Dispatch Agency	Other Entity			Active	Independent	
500084	Belleview Economic and Development Council	Other Entity	200029	Belleview	Active	Dependent	Independently Reported
500085	North Florida Broadband Authority	Other Entity			Active	Independent	
500090	Capital Regional Transportation Planning Agency	Other Entity			Active	Independent	

Florida Statutes (2018) related to Local Government Financial Reporting

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action. If the committee determines that the entity should be subject to further state action, the committee shall:

(a) In the case of a local governmental entity or district school board, direct the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law. The committee shall specify the date such action shall begin, and the directive must be received by the Department of Revenue and the Department of Financial Services 30 days before the date of the distribution mandated by law. The Department of Revenue and the Department of Financial Services may implement the provisions of this paragraph.

(b) In the case of a special district created by:

1. A special act, notify the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight as determined by the presiding officers of each respective chamber, the legislators who represent a portion of the geographical jurisdiction of the special district, and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.0651, or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

2. A local ordinance, notify the chair or equivalent of the local general-purpose government pursuant to s. 189.0652 and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.0652, or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

3. Any manner other than a special act or local ordinance, notify the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067(3).

11.45(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(a) The Auditor General shall notify the Legislative Auditing Committee of any local governmental entity, district school board, charter school, or charter technical career center that does not comply with the reporting requirements of s. 218.39.

218.32 Annual financial reports; local governmental entities.—

(1)(a) Each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.012, shall submit to the department a copy of its annual financial report for the previous fiscal year in a format prescribed by the department. The annual financial report must include a list of each local governmental entity included in the report and each local governmental entity that failed to provide financial information as required by paragraph (b). The chair of the governing body and the chief financial officer of each local governmental entity shall sign the annual financial report

submitted pursuant to this subsection attesting to the accuracy of the information included in the report. The county annual financial report must be a single document that covers each county agency.

(b) Each 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 the reporting requirements contained in this section.

(f) If the department does not receive a completed annual financial report from a local governmental entity within the required period, it shall notify the Legislative Auditing Committee and the Special District Accountability Program of the Department of Economic Opportunity of the entity's failure to comply with the reporting requirements.

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.

189.062 Special procedures for inactive districts.—

(1) The department shall declare inactive any special district in this state by documenting that:

(a) The special district meets one of the following criteria:

1. The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has taken no action for 2 or more years;

2. The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has not had a governing body or a sufficient number of governing body members to constitute a quorum for 2 or more years;

3. The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to an inquiry by the department within 21 days;

4. The department determines, pursuant to s. 189.067, that the district has failed to file any of the reports listed in s. 189.066;

5. The district has not had a registered office and agent on file with the department for 1 or more years; or

6. The governing body of a special district provides documentation to the department that it has unanimously adopted a resolution declaring the special district inactive. The special district is responsible for payment of any expenses associated with its dissolution.

(b) The department, special district, or local general-purpose government has published a notice of proposed declaration of inactive status in a newspaper of general circulation in the county or municipality in which the territory

of the special district is located and has sent a copy of such notice by certified mail to the registered agent or chair of the governing body, if any. Such notice must include the name of the special district, the law under which it was organized and operating, a general description of the territory included in the special district, and a statement that any objections must be filed pursuant to chapter 120 within 21 days after the publication date.

(c) Twenty-one days have elapsed from the publication date of the notice of proposed declaration of inactive status and no administrative appeals were filed.

(2) If any special district is declared inactive pursuant to this section, the property or assets of the special district are subject to legal process for payment of any debts of the district. After the payment of all the debts of said inactive special district, the remainder of its property or assets shall escheat to the county or municipality wherein located. If, however, it shall be necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive special district, the same may be assessed and levied by order of the local general-purpose government wherein the same is situated and shall be assessed by the county property appraiser and collected by the county tax collector.

(3)(a) In the case of a district created by special act of the Legislature, the department shall send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate, and the standing committees of the Senate and the House of Representatives charged with special district oversight as determined by the presiding officers of each respective chamber and the Legislative Auditing Committee. The notice of declaration of inactive status shall reference each known special act creating or amending the charter of any special district declared to be inactive under this section. The declaration of inactive status shall be sufficient notice as required by s. 10, Art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported. Each special act creating or amending the charter of a special district declared to be inactive under this section may be repealed by general law.

(b) In the case of a district created by one or more local general-purpose governments, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government that created the district.

(c) In the case of a district created by interlocal agreement, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government which entered into the interlocal agreement.

(4) The entity that created a special district declared inactive under this section must dissolve the special district by repealing its enabling laws or by other means as set forth in s. 189.071 or s. 189.072.

(5) A special district declared inactive under this section may not collect taxes, fees, or assessments unless the declaration is:

(a) Withdrawn or revoked by the department; or

(b) Invalidated in proceedings initiated by the special district within 30 days after the publication date of the newspaper notice required under paragraph (1)(b). The special district governing body may initiate proceedings within the period authorized in this paragraph by:

1. Filing with the department a petition for an administrative hearing pursuant to s. 120.569; or

2. Filing an action for declaratory and injunctive relief under chapter 86 in the circuit court of the judicial circuit in which the majority of the area of the district is located.

(c) If a timely challenge to the declaration is not initiated by the special district governing body, or the department prevails in a proceeding initiated under paragraph (b), the department may enforce the prohibitions in this subsection by filing a petition for enforcement with the circuit court in and for Leon County. The petition may request declaratory, injunctive, or other equitable relief, including the appointment of a receiver, and any forfeiture or other remedy provided by law.

(d) The prevailing party shall be awarded costs of litigation and reasonable attorney fees in any proceeding brought under this subsection.

(6)(a) The department shall immediately remove each special district declared inactive as provided in this section from the official list of special districts maintained as provided in ss. 189.061 and 189.064.

(b) The department shall create a separate list of all special districts declared inactive as provided in this section and shall maintain each such district on the inactive list until the department determines that the district has resumed active status, the district is merged as provided in s. 189.071 or s. 189.074, or the district is dissolved as provided in s. 189.071 or s. 189.072.

189.067 Failure of district to disclose financial reports.—

(1)(a) If notified pursuant to s. 189.066(1), (4), or (5), the department shall attempt to assist a special district in complying with its financial reporting requirements by sending a certified letter to the special district, and, if the special district is dependent, sending a copy of that letter to the chair of the local governing authority. The letter must include a description of the required report, including statutory submission deadlines, a contact telephone number for technical assistance to help the special district comply, a 60-day deadline for filing the required report with the appropriate entity, the address where the report must be filed, and an explanation of the penalties for noncompliance.

(b) A special district that is unable to meet the 60-day reporting deadline must provide written notice to the department before the expiration of the deadline stating the reason the special district is unable to comply with the deadline, the steps the special district is taking to prevent the noncompliance from reoccurring, and the estimated date that the special district will file the report with the appropriate agency. The district's written response does not constitute an extension by the department; however, the department shall forward the written response as follows:

1. If the written response refers to the reports required under s. 218.32 or s. 218.39, to the Legislative Auditing Committee for its consideration in determining whether the special district should be subject to further state action in accordance with s. 11.40(2)(b).

2. If the written response refers to the reports or information requirements listed in s. 189.066(1), to the local general-purpose government or governments for their consideration in determining whether the oversight review process set forth in s. 189.068 should be undertaken.

3. If the written response refers to the reports or information required under s. 112.63, to the Department of Management Services for its consideration in determining whether the special district should be subject to further state action in accordance with s. 112.63(4)(d)2.

(2) Failure of a special district to comply with the actuarial and financial reporting requirements under s. 112.63, s. 218.32, or s. 218.39 after the procedures of subsection (1) are exhausted shall be deemed final action of the special district. The actuarial and financial reporting requirements are declared to be essential requirements of law. Remedies for noncompliance with ss. 218.32 and 218.39 shall be as provided in ss. 189.0651 and 189.0652. Remedy for noncompliance with s. 112.63 shall be as set forth in subsection (4).

(3) Pursuant to s. 11.40(2)(b), the Legislative Auditing Committee may notify the department of those districts that fail to file the required reports. If the procedures described in subsection (1) have not yet been initiated, the department shall initiate such procedures upon receiving the notice from the Legislative Auditing Committee. Otherwise, within 60 days after receiving such notice, or within 60 days after the expiration of the 60-day deadline provided in subsection (1), whichever occurs later, the department, notwithstanding the provisions of chapter 120, shall file a petition for enforcement with the circuit court. The petition may request declaratory, injunctive, any other equitable relief, or any remedy provided by law. Venue for all actions pursuant to this subsection is in Leon County. The court shall award the prevailing party reasonable attorney's fees and costs unless affirmatively waived by all parties.

(4) The department may enforce compliance with s. 112.63 by filing a petition for enforcement with the circuit court in and for Leon County. The petition may request declaratory, injunctive, or other equitable relief, including the appointment of a receiver, and any forfeiture or other remedy provided by law.

List 1: LOCAL GOVERNMENTS

Significant Items Missing from Audit Report - Not Yet Provided to Auditor General
(required by s. 11.45(7)(b), F.S.)

	Entity Name (County)	Senate District(s)	House District(s)	Item(s) Missing from FY 2016-17 Audit Report	Staff Recommendation
1	McIntosh, Town of (<i>Marion</i>)	8	20	The date the audit report was delivered to the local governmental entity was not included in correspondence accompanying the audit report submitted to the Auditor General, although required by Section 10.558(3), Rules of the Auditor General.	Take action if not received by March 1, 2019
2	St. Lucie Village, Town of (<i>St. Lucie</i>)	25	54	Uncorrected audit findings that were also included in the first and second preceding fiscal year audit reports were not identified in the audit report, although required by Section 10.554(1)(i)1., Rules of the Auditor General.	
3.	City-County Public Works Authority (<i>Glades</i>)	26	55	A written statement of explanation or rebuttal concerning the findings in the management letter was excluded from the audit report, although required by Sections 10.557(3)(l) and 10.558(1), Rules of the Auditor General.	

List 2: LOCAL GOVERNMENTS

Failure to Provide the Auditor General with Evidence of Corrective Action Taken Related to Investment Policies
(required by s. 11.45(7)(d), F.S.)

	Entity Name (County)	Senate District(s)	House District(s)	Non-Compliance Reported in the FY 2016-17 Audit Report Related to Investment Policies	Staff Recommendation
1	Bonifay, City of (<i>Holmes</i>)	2	5	The auditors disclosed the following material noncompliance with the requirements of Section 218.415, <i>Florida Statutes (Local Government Investment Policies)</i> : The City invested in federal agencies but did not have a written investment policy. Investments in federal agencies are only authorized if the City has a written investment policy. Although required, the City has failed to provide evidence of corrective action regarding this noncompliance to the Auditor General.	Take action if not received by April 1, 2019

From: [DEREK NOONAN](#)
To: [Mayfield, Debbie](#); [Sullivan, Jennifer](#)
Cc: [White, Deborah](#); [Dubose, Kathy](#)
Subject: 2016-17 FY Section 11.45(7)(b) and (d), FS, Notification
Date: Tuesday, October 30, 2018 8:04:36 AM
Attachments: [2017 Missing Items Letter to JLAC.docx](#)

Pursuant to Section 11.45(7)(b), Florida Statutes, this e-mail is to notify you of the 17 local governmental entities that did not provide us, within 45 days after the date of our request, the significant items omitted from their 2016-17 fiscal year audit reports or from their audit report transmittal correspondence. The entities are listed on the attached and include 1 county constitutional officer, 8 municipalities, and 8 special districts. The attachment also describes the audit report and correspondence items omitted.

In addition, pursuant to Section 11.45(7)(d), Florida Statutes, this e-mail is to notify you that the City of Bonifay was cited for noncompliance with Section 218.415, Florida Statutes, and did not provide us evidence of corrective action within 45 days of our August 27, 2018, request.

To date, none of the entities have provided us the requested information. Please advise if you or your staff have any questions regarding this information.

Derek H. Noonan, Audit Supervisor
Auditor General, State of Florida
111 West Madison Street, Rm 401-P
Tallahassee, FL 32399-1450
Office (850) 412-2864
FAX (850) 488-6975

Note: In the event your response contains information that may be considered sensitive or confidential pursuant to Federal or State law, please do not send that information via e-mail. Please contact me to make alternative arrangements to provide the information.

LIST OF LOCAL GOVERNMENTAL ENTITIES
 THAT HAVE NOT PROVIDED SIGNIFICANT ITEMS
 OMITTED FROM 2016-17 FISCAL YEAR AUDIT REPORTS OR
 FROM AUDIT REPORT TRANSMITTAL CORRESPONDANCE
 AS OF OCTOBER 22, 2018

<u>COUNTY</u>	<u>ITEM(S) OMITTED</u>	<u>DATE ITEM(S) REQUESTED BY AUDITOR GENERAL</u>
Broward County Clerk of the Courts	A	7/25/18
 <u>MUNICIPALITIES</u>		
Avon Park, City of	B	8/24/18
Bal Harbour Village, Town of	B	8/24/18
Bonifay, City of	C, D	8/24/18
Crescent City, City of	E, F, G	5/15/18
Howey-in-the-Hills, Town of	H, I	8/24/18
McIntosh, Town of	B	8/24/18
St. Lucie Village, Town of	I	8/24/18
 <u>SPECIAL DISTRICTS</u>		
Anthem Park Community Development District	B	7/25/18
Boyette Park Community Development District	J, K	7/25/18
Captiva Erosion Prevention District	L	5/15/18
City-County Public Works Authority	C	7/25/18
DG Farms Community Development District	B	7/25/18
Mirada Community Development District (Pasco County)	B	8/24/18
New River Public Library Cooperative	M, N	8/24/18
Troup-Indiantown Water Control District	B	8/24/18

LIST OF LOCAL GOVERNMENTAL ENTITIES
THAT HAVE NOT PROVIDED SIGNIFICANT ITEMS
OMITTED FROM 2016-17 FISCAL YEAR AUDIT REPORTS OR
FROM AUDIT REPORT TRANSMITTAL CORRESPONDANCE
AS OF OCTOBER 22, 2018

Item(s) Omitted:

- (A) An accountant's examination report with a determination of the entity's compliance with Section 218.415, Florida Statutes regarding the investment of public funds was excluded from the audit report although required by Sections 10.556(10)(a), and 10.557(3)(c), Rules of the Auditor General.
- (B) The date the audit report was delivered to the local governmental entity was not included in correspondence accompanying the audit report submitted to the Auditor General, although required by Section 10.558(3), Rules of the Auditor General.
- (C) A written statement of explanation or rebuttal concerning the findings in the management letter was excluded from the audit report, although required by Sections 10.557(3)(l) and 10.558(1), Rules of the Auditor General.
- (D) Reference number(s) were not assigned to each finding and recommendation included in the management letter, although required by Section 10.557(4)(b)7., Rules of the Auditor General, to allow for easy referencing during follow-up.
- (E) A schedule of the entity's changes in the net pension liability showing beginning and ending balances of the total pension liability, the plan's fiduciary net position, and the net pension liability was excluded from the audit report's required supplementary information, although required for entities presenting pension trust funds by Section Pe5.128a of the *Codification of Government Accounting and Financial Reporting Standards*.
- (F) A schedule showing the entity's total pension liability, the pension plan's fiduciary net position, the entity's net pension liability, the plan's fiduciary net position as a percentage of total pension liability, the entity's covered payroll, and the net pension liability as a percentage of covered payroll was excluded from the audit report's required supplementary information, although required for entities presenting pension trust funds by Section Pe5.128b of the *Codification of Government Accounting and Financial Reporting Standards*.
- (G) A schedule showing the annual money-weighted rate of return on the pension plan's investments was excluded from the audit report's required supplementary information, although required for entities presenting pension trust funds by Section Pe5.128d of the *Codification of Government Accounting and Financial Reporting Standards*.

LIST OF LOCAL GOVERNMENTAL ENTITIES
THAT HAVE NOT PROVIDED SIGNIFICANT ITEMS
OMITTED FROM 2016-17 FISCAL YEAR AUDIT REPORTS OR
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AS OF OCTOBER 22, 2018

- (H) A statement as to whether corrective actions have been taken to address findings and recommendations made in the preceding audit report was excluded from the management letter accompanying the audit report, although required by Section 10.554(1)(i)1., Rules of the Auditor General.
- (I) Uncorrected audit findings that were also included in the first and second preceding fiscal year audit reports were not identified in the audit report, although required by Section 10.554(1)(i)1., Rules of the Auditor General.
- (J) A schedule accompanying the balance sheet that reconciles total government fund balances to the net position of government activities reported on the Statement of Net Position was excluded from the audit report, although required by Sections 2200.160, and .164 of the *Codification of Government Accounting and Financial Reporting Standards*.
- (K) A schedule accompanying the statement of revenues, expenditures, and changes in fund balance that reconciles the total change in fund balances to the change in the net position of government activities reported on the Statement of Activities was excluded from the audit report, although required by Sections 2200.160, and .169 of the *Codification of Government Accounting and Financial Reporting Standards*.
- (L) An independent auditor's report that provides an opinion on the Schedule of Expenditures of Federal Awards was excluded from the audit report, although required for entities receiving Federal Single Audits by Uniform Guidance 2 CFR 200.515a., and Section 10.557(3)(d), Rules of the Auditor General.
- (M) A schedule showing the entity's proportion (percentage) of the collective net pension liability, their proportionate share (amount) of the net pension liability, the entity's covered payroll, and the plan's fiduciary net position as a percentage of the total liability was excluded from the audit report's required supplementary information, although required for entities with defined benefit cost-sharing pension plans by P20.181a. of the *Codification of Governmental Accounting and Financial Reporting Standards*.

LIST OF LOCAL GOVERNMENTAL ENTITIES
THAT HAVE NOT PROVIDED SIGNIFICANT ITEMS
OMITTED FROM 2016-17 FISCAL YEAR AUDIT REPORTS OR
FROM AUDIT RPEORT TRANSMITTAL CORRESPONDANCE
AS OF OCTOBER 22, 2018

- (N) A schedule showing the entity's required employer contribution, the amount actually contributed, the difference between the required and the actual contribution, the entity's covered payroll, and the contribution recognized by the pension plan in relation to the required amount as a percentage of covered payroll was excluded from the audit report's required supplementary information, although required for entities with defined benefit cost-sharing pension plans by P20.181b. of the *Codification of Governmental Accounting and Financial Reporting Standards*.

Note: All references to Rules of the Auditor General are to rules in effect for the 2016-17 fiscal year.

Florida Statutes (2018) related to Significant Audit Items Missing

11.45(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(b) The Auditor General, in consultation with the Board of Accountancy, shall review all audit reports submitted pursuant to s. 218.39. The Auditor General shall request any significant items that were omitted in violation of a rule adopted by the Auditor General. The items must be provided within 45 days after the date of the request. If the governmental entity does not comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee.

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action. If the committee determines that the entity should be subject to further state action, the committee shall:

(a) In the case of a local governmental entity or district school board, direct the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law. The committee shall specify the date such action shall begin, and the directive must be received by the Department of Revenue and the Department of Financial Services 30 days before the date of the distribution mandated by law. The Department of Revenue and the Department of Financial Services may implement the provisions of this paragraph.

(b) In the case of a special district created by:

1. A special act, notify the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight as determined by the presiding officers of each respective chamber, the legislators who represent a portion of the geographical jurisdiction of the special district, and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.0651, or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

2. A local ordinance, notify the chair or equivalent of the local general-purpose government pursuant to s. 189.0652 and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.0652, or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

3. Any manner other than a special act or local ordinance, notify the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067(3).

LOCAL GOVERNMENT FINANCIAL REPORTING SYSTEM

PERFORMANCE AUDIT

LEGISLATIVE AUDITING COMMITTEE

FEBRUARY 7, 2019



BACKGROUND

- ❖ State law requires that we, at least every 3 years, conduct a performance audit of the local government financial reporting system (LGFRS).
- ❖ The LGFRS means any statutory provision related to local government financial reporting.
- ❖ The Auditor General determines the scope of the audit.

BACKGROUND

- ❖ The purpose of the audit was to determine the accuracy, efficiency, and effectiveness of the LGFRS in achieving its goals and to the make recommendations to local governments, the Governor, and the Legislature as to how the LGFRS can be improved and how program costs can be reduced.
- ❖ In September 2018, we issued our report No. 2019-028 in with 6 audit findings.

BACKGROUND

Performance audit means an examination of a program, activity, or function of a governmental entity, conducted in accordance with applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies.

FINDING I

AUDIT COMMITTEES

State law could be enhanced to require local governments to establish policies and procedures requiring audit committee members to have a basic understanding of governmental financial reporting and auditing.

State law could also be enhanced to require that at least one audit committee member, or a person consulted by the audit committee, have an understanding of generally accepted accounting principles and experience preparing or auditing governmental entity financial statements.

FINDING I RECOMMENDATION

AUDIT COMMITTEES

We recommend that the Legislature consider revising State law to require local governmental entities to establish ordinances, resolutions, or policies and procedures to define audit committee responsibilities and audit committee member qualifications consistent with applicable Government Finance Officers Association (GFOA) best practices.

FINDING 2

CRA TRUST FUND AUDITS

Community Redevelopment Agencies could improve procedures to ensure that annual trust fund audit reports include all information required by State law. In addition, the Legislature could consider amending State law to require auditors of CRA trust funds to determine and report whether the CRAs complied with State laws governing the use and disposition of CRA trust fund moneys.

FINDING 2 RECOMMENDATION

CRA TRUST FUND AUDITS

CRA should enhance procedures to ensure that annual trust fund audit reports include all the information required by State law. Such enhancements could include appropriate training to ensure CRA personnel understand the statutory audit report requirements and that CRA contracts with auditors address those requirements.

FINDING 2 RECOMMENDATION (CONTINUED) CRA TRUST FUND AUDITS

Additionally, the Legislature should consider amending State law to require that auditors of CRA trust funds determine and report whether CRAs complied with State laws governing the use and disposition of CRA trust fund moneys.

FINDING 3

LANDFILL ESCROW ACCOUNT AUDITS

Statutory requirements for annual audits of the local government escrow accounts maintained to accumulate financial resources for the proper closing and long-term care of landfills could be clarified to ensure that the audits are properly and consistently conducted in accordance with Legislative intent.

FINDING 3 RECOMMENDATION

LANDFILL ESCROW ACCOUNT AUDITS

We recommend that the Legislature consider revising State law governing local government escrow account audits to require:

- Certified Public Accountants (CPAs) to opine on the accuracy of local-government-reported escrow account balances and disclose in the audit reports whether the local governments complied with State law by ensuring that the escrow accounts had sufficient financial resources for proper closure of the landfills.

FINDING 3 RECOMMENDATION (CONTINUED)

LANDFILL ESCROW ACCOUNT AUDITS

- CPAs to follow specified professional standards, such as American Institute of Certified Public Accountants (AICPA) auditing standards or generally accepted government auditing standards, when conducting the audits.
- Department of Environmental Protection (DEP) personnel to verify that the audit reports include required information in accordance with DEP rules.
- Penalties or other consequences be assessed for landfill owners and operators who do not timely submit audit reports to the DEP or submit audit reports that lack required information.

FINDING 4

STATEMENT OF COUNTY COMPLIANCE

Statutory requirements for annual statements of county compliance for court-related functions could be clarified to ensure that the statements are properly and consistently prepared in accordance with Legislative intent.

FINDING 4 RECOMMENDATION

STATEMENT OF COUNTY COMPLIANCE

The Legislature should consider revising State law governing CPA statements of compliance to:

- Require CPAs to follow specified professional standards, such as AICPA examination attestation standards or AICPA auditing standards, when conducting the audits.
- Require Department of Financial Services (DFS) personnel to document verification that the CPA statements of compliance were prepared in compliance with State law, DFS rules, and applicable professional standards.

FINDING 4 RECOMMENDATION (CONTINUED) STATEMENT OF COUNTY COMPLIANCE

- Require penalties or other consequences be assessed for counties that do not submit CPA statements of compliance to the DFS or submit statements that do not comply with the requirements in State law, DFS rules, or applicable professional standards.
- Clarify what provisions of law should be addressed in the CPAs' determinations of compliance so that the CPAs' determinations are not duplicative of the compliance determinations the DFS is required to make.

FINDING 5

STATE OF FINANCIAL EMERGENCY

The Executive Office of the Governor (EOG) did not always promptly make state of financial emergency determinations for local governmental entities that met a specified condition in State law or notify the Legislative Auditing Committee of local governmental entities that did not timely respond to EOG information requests.

FINDING 5 RECOMMENDATION

STATE OF FINANCIAL EMERGENCY

The EOG should take appropriate steps to ensure that prompt state of financial emergency determinations are made for local governmental entities that meet a specified condition in State law and that the LAC is promptly notified of entities that do not comply with the EOG's request for information within 45 days.

FINDING 6

AFR VERIFICATION AND VERIFIED REPORT

The DFS did not always timely assign annual financial report (AFR) verification responsibilities to DFS personnel nor was AFR information always timely verified. We also identified 80 local governmental entities required to submit 2014-15 fiscal year audit reports to the DFS that did not submit the reports, and DFS records did not always evidence attempts to obtain the reports from those entities.

FINDING 6 (CONTINUED)

AFR VERIFICATION AND VERIFIED REPORT

In addition, our comparison of the 2014-15 fiscal year verified report totals generated from the DFS Web-based Local Government Electronic Reporting system to the related AFR data for 10 entities disclosed that the verified report excluded revenues totaling \$14.3 million and expenditures totaling \$14 million that were reported in the individual entity AFRs. Further, DFS records did not evidence electronic or paper copies of the December 2016 verified report provided to statutorily specified parties nor the basis for the data included in the report.

FINDING 6 RECOMMENDATION

AFR VERIFICATION AND VERIFIED REPORT

To enhance the timeliness of AFR verification and promote the accuracy and reliability of the verified report, the DFS should:

- Improve LOGGER functionality to identify those entities required to provide audit reports and the AFRs that are ready for verification upon receipt of either an audit report or other prescribed information.
- Assign AFRs to DFS personnel for verification as soon as practical.

FINDING 6 RECOMMENDATION (CONTINUED) ANNUAL FINANCIAL REPORT VERIFICATION AND VERIFIED REPORT

- Make prompt and appropriate attempts to obtain required audit reports and retain documentation, such as e-mails, evidencing such attempts.
- Ensure all applicable AFR data accounts are included in the verified report by establishing procedures to require periodic documented comparisons of AFR data accounts to those used in the verified report.
- Maintain a copy of the December verified report and the records that support report preparation, including, but not limited to, the dates that DFS personnel verified the AFR and subsequent AFR revision information.

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FLAuditor.gov

Report No. 2019-028
September 2018

STATE OF FLORIDA AUDITOR GENERAL

Performance Audit

**LOCAL GOVERNMENT
FINANCIAL REPORTING SYSTEM**



Sherrill F. Norman, CPA
Auditor General

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LOCAL GOVERNMENT FINANCIAL REPORTING SYSTEM

SUMMARY

Pursuant to Section 11.45(2)(g), Florida Statutes, this performance audit of the local government financial reporting system focused on determining the accuracy, efficiency, and effectiveness of the system in achieving its goals; how the reporting system can be improved; and how program costs can be reduced. Our audit also included a follow-up on selected findings noted in our report Nos. 2009-014, 2011-196, and 2015-037. Our audit disclosed the following:

Finding 1: State law could be enhanced to require local governments to establish policies and procedures requiring audit committee members to have a basic understanding of governmental financial reporting and auditing. State law could also be enhanced to require that at least one audit committee member, or a person consulted by the audit committee, have an understanding of generally accepted accounting principles and experience preparing or auditing governmental entity financial statements.

Finding 2: Community redevelopment agencies (CRAs) could improve procedures to ensure that annual trust fund audit reports include all information required by State law. In addition, the Legislature could consider amending State law to require auditors of CRA trust funds to determine and report whether the CRAs complied with State laws governing the use and disposition of CRA trust fund moneys.

Finding 3: Statutory requirements for annual audits of the local government escrow accounts maintained to accumulate financial resources for the proper closing and long-term care of landfills could be clarified to ensure that the audits are properly and consistently conducted in accordance with Legislative intent.

Finding 4: Statutory requirements for annual statements of county compliance for court-related functions could be clarified to ensure that the statements are properly and consistently prepared in accordance with Legislative intent.

Finding 5: The Executive Office of the Governor (EOG) did not always promptly make state of financial emergency determinations for local governmental entities that met a specified condition in State law or notify the Legislative Auditing Committee of local governmental entities that did not timely respond to EOG information requests.

Finding 6: The Department of Financial Services (DFS) did not always timely assign annual financial report (AFR) verification responsibilities to DFS personnel nor was AFR information always timely verified. We also identified 80 local governmental entities required to submit 2014-15 fiscal year audit reports to the DFS that did not submit the reports, and DFS records did not always evidence attempts to obtain the reports from those entities. In addition, our comparison of the 2014-15 fiscal year verified report totals generated from the DFS Web-based Local Government Electronic Reporting system to the related AFR data for 10 entities disclosed that the verified report excluded revenues totaling \$14.3 million and expenditures totaling \$14 million that were reported in the individual entity AFRs. Further, DFS records did not evidence electronic or paper copies of the December 2016 verified report provided to statutorily specified parties nor the basis for the data included in the report.

BACKGROUND

For purposes of State law,¹ the local government financial reporting system means any statutory provision related to local government² financial reporting. There are numerous statutory provisions related to local government financial reporting established in State law, for example:

- Section 29.0085, Florida Statutes, requires each county to annually submit to the State Chief Financial Officer (CFO) a statement of revenues and expenditures in the form and manner prescribed by the CFO. State law also requires that, by January 31 of each year, each county submit to the CFO a statement of compliance from its independent certified public accountant engaged to conduct its annual financial audit indicating that the certified statement of expenditures was in accordance with State law.
- Section 163.387(8), Florida Statutes, requires community redevelopment agencies to obtain an annual audit of the community redevelopment trust funds.
- Section 218.32(1), Florida Statutes, requires local governmental entities to submit to the Department of Financial Services (DFS) an annual financial report (AFR) and, if the local governmental entities meet the audit threshold specified in State law, a copy of their audit report.
- Section 218.32(2), Florida Statutes, requires the DFS to annually file, by December 1, a verified report with certain statutorily specified entities showing the total revenues, expenditures, and outstanding long-term debt of each local governmental entity, regional planning council, local government finance commission, and municipal power corporation entity that is required to submit an AFR.
- Section 218.39, Florida Statutes, requires an annual financial audit of accounts and records be completed within 9 months after the end of the fiscal year for counties, district school boards, charter schools, and charter technical career centers and certain municipalities and special districts.
- Section 403.7125(2), Florida Statutes, requires local governments that own or operate a landfill to obtain an audit of the interest-bearing escrow account maintained to ensure the availability of financial resources for the proper closure and long-term care of the landfill.

The local government financial reporting system provisions included in the scope of this audit are described in the **FINDINGS AND RECOMMENDATIONS** and **OBJECTIVES, SCOPE, AND METHODOLOGY** sections of this report.

FINDINGS AND RECOMMENDATIONS

Finding 1: Audit Committees

Financial audits of local governmental entities performed by independent certified public accountants (CPAs) pursuant to State law³ provide:

- Assurance of the reliability and completeness of local government financial statements.

¹ Section 11.45(2)(g), Florida Statutes.

² The term “local government” refers to local governmental entities as defined in Section 218.31(1), Florida Statutes (i.e., counties, municipalities, and special districts).

³ Section 218.39, Florida Statutes.

- A means for evaluating the effectiveness of local government internal control over financial reporting.
- A determination of the extent to which local governments complied with applicable laws, rules, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on local government financial statement amounts.

Pursuant to State law, a local governmental entity must select a financial auditor by establishing an audit committee to assist in the selection of the auditor. The audit committee responsibilities include publicly announcing the need for audit services and using requests for proposals. By effectively carrying out its functions and responsibilities, an audit committee helps to ensure that management properly develops and adheres to a sound system of internal controls; that procedures are in place to objectively assess management's practices; and that the independent auditors, through their own review, objectively assess the government's financial reporting practices.

According to the Government Finance Officers Association (GFOA),⁴ an audit committee is a practical means for a governing body to provide much needed independent review and oversight of the government financial reporting processes, internal controls, and independent auditors. The GFOA recommends that the audit committee be established by charter, enabling resolution, or other appropriate legal means. In addition, GFOA best practices include recommendations that each audit committee member have a basic understanding of governmental financial reporting and auditing and that at least one audit committee member, or a person consulted by the audit committee, have an understanding of generally accepted accounting principles (GAAP) and financial statements. While the GFOA did not explain what constitutes a basic understanding of governmental financial reporting and auditing or an understanding of GAAP and financial statements, entity-defined education and experience requirements for committee members could help ensure the members possessed the qualifications to fulfill their responsibilities.

As part of our audit, we sent surveys regarding audit committees to the 1,311 local governmental entities that, as of September 15, 2017, had submitted a 2015-16 fiscal year audit report to us. We received survey responses from 394 entities. The survey responses indicated that:

- 158 (40 percent) of the 394 entities did not have an ordinance, resolution, or written policies and procedures addressing the audit committee required by State law. Appropriately established audit committees with defined responsibilities and committee member qualifications would help ensure that financial auditors are properly selected in accordance with State law.
- 236 entities had ordinances, resolutions, or written policies and procedures addressing the audit committee. However, 137 (58 percent) of those entities' ordinances, resolutions, or written policies and procedures did not incorporate the GFOA-recommended audit committee best practices requiring each audit committee member to have a basic understanding of governmental financial reporting and auditing and at least one audit committee member, or a person consulted by the audit committee, to have an understanding of GAAP and financial statements.

Recommendation: We recommend that the Legislature consider revising State law to require local governmental entities to establish ordinances, resolutions, or policies and procedures to define audit committee responsibilities and audit committee member qualifications consistent with applicable GFOA best practices.

⁴ GFOA Best Practice, *Audit Committees* (October 2008).

Finding 2: Community Redevelopment Agency Trust Fund Audits

State law⁵ authorizes the creation of community redevelopment agencies (CRAs) by counties and municipalities for the purpose of redeveloping slums and blighted areas and areas that are injurious to the public health, safety, morals, and welfare of residents and for which there is a shortage of housing affordable to residents of low and moderate income, including the elderly. State law also provides requirements that address CRA powers, funding, expenditure restrictions, and reporting and audit requirements.

A CRA is funded through tax increment financing whereby, generally, the CRA annually receives 95 percent of the difference between the amount of ad valorem taxes levied by each taxing authority (exclusive of amounts derived from debt service millage) on taxable properties within the designated community redevelopment area and the amount of taxes that would have been produced by the millage rates levied by the taxing authorities prior to the effective date of the ordinance providing for the funding. State law⁶ requires CRAs to provide for an audit of their trust fund each fiscal year and a report of such audit be prepared by an independent CPA or firm. As such, State law clearly contemplates an audit and resulting audit report with the scope and opinion focused on the CRA trust funds.

State law also requires the audit report to describe:

- The amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during the fiscal year.
- The amount of principal and interest paid during the fiscal year on any indebtedness to which increment revenues are pledged and the remaining amount of such indebtedness.

Therefore, it is important for CRA personnel to understand these reporting requirements and that all applicable reporting requirements be addressed in the CRA contracts with CPAs.

Our examination of audit reports prepared pursuant to State law⁷ disclosed that CRA trust funds are reported in a variety of ways. For example, in county and municipality audit reports, CRA trust funds are typically presented in the financial statements as a single column identified solely as the CRA trust fund or included in a column presenting the aggregate of the CRA trust fund and other county or municipality funds. Alternatively, CRA trust funds may be presented in financial statements that are included in an audit report separate from the audit report of the authorizing county or municipality.

To determine whether CRAs appropriately provided for audits of the CRA trust funds and the audit reports included the required information, we examined the audit reports related to 60 CRAs selected from the population of 220 CRAs listed on the February 2017 Department of Economic Opportunity's "Official List of Special Districts." We reviewed the applicable 2014-15 fiscal year audit reports and noted that the activities of 59 CRAs were included in the respective county or municipality financial audit report and that 1 CRA provided for a separate audit report. We also found that:

- 6 (10 percent) of the 59 county and municipality audit reports reported the CRA trust funds as nonmajor funds, which were aggregated and presented in a single column along with the local

⁵ Chapter 163, Part III, Florida Statutes, also known as the "Community Redevelopment Act of 1969."

⁶ Section 163.387(8), Florida Statutes.

⁷ Section 218.39, Florida Statutes.

government's other nonmajor funds and did not provide a separate opinion on the CRA trust fund. This presentation did not comply with State law as the scope of the audits and related audit opinions did not focus on the CRA trust funds. As such, the audit reports did not provide a means for evaluating the adequacy of internal controls over CRA trust fund activities or the extent to which such activities were administered in accordance with applicable laws, rules, and governing policies.

- 4 (7 percent) of the 59 audit reports, including 3 of the 6 audit reports that aggregated CRA activities with other nonmajor funds and 1 other audit report that reported a CRA as a discretely presented component unit within its primary government's financial statements, did not describe the amount and source of deposits into, and the amount and purpose of withdrawals from, the trust fund during the fiscal year. Absent such descriptions, the audit reports did not comply with State law and do not provide essential information necessary for audit report users' evaluation of CRA trust fund activities.

These instances of noncompliance with State law may have occurred because the CRAs and their auditors were not aware of or misunderstood the statutorily required information that must be included in the audit reports.

In addition, our operational audits of CRAs⁸ have disclosed uses of CRA trust fund moneys that did not always appear to be in accordance with approved CRA plans or were otherwise used for purposes contrary to State law and undocumented statutory compliance regarding the disposition of unexpended CRA trust fund moneys. However, State law does not require auditors of CRA trust funds to determine and report whether CRAs complied with State laws governing the use and disposition of CRA trust fund moneys.

Requiring the CRA trust fund audit to include a determination of compliance with laws governing the use and disposition of CRA trust fund moneys would improve accountability for CRA resources and provide additional transparency for those taxing authorities required to remit tax increment revenues to a CRA. A similar finding was noted in our report No. 2015-037, Finding No. 5.

Recommendation: CRAs should enhance procedures to ensure that annual trust fund audit reports include all the information required by State law. Such enhancements could include appropriate training to ensure CRA personnel understand the statutory audit report requirements and that CRA contracts with auditors address those requirements. Additionally, the Legislature should consider amending State law to require that auditors of CRA trust funds determine and report whether CRAs complied with State laws governing the use and disposition of CRA trust fund moneys.

Finding 3: Landfill Escrow Account Audits

State law⁹ requires every local government that owns or operates a landfill to establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill.¹⁰ The revenue is to be deposited in an

⁸ Examples of our operational audits of CRAs include the City of Hollywood CRA Operational Audit (report Nos. 2015-183 and 2013-093) and the Delray Beach CRA Operational Audit (report Nos. 2016-028 and 2014-013).

⁹ Section 403.7125(2), Florida Statutes.

¹⁰ As an alternative, pursuant to Section 403.7125(3), Florida Statutes, a local government may utilize surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the local government has sufficient financial resources to provide for proper closure of the landfill.

interest-bearing escrow account to be held and administered by the local government and the local government must obtain an audit of the account conducted by an independent CPA. Florida Department of Environmental Protection (DEP) rules¹¹ require the local governments to:

- File with the DEP no later than March 31 of the following year:
 - A signed duplicate original of the escrow agreement.
 - The audit report that references DEP rules¹² and the escrow agreement and includes a list, by date, of all deposits and withdrawals made.
- Identify where funds are on deposit.
- Provide the landfill management escrow account balance as of the end of the fiscal year.
- Itemize, by facility, amounts restricted for closing and long-term care.

Our review of DEP records and discussions with DEP personnel regarding landfill management escrow accounts disclosed that there were 76 local government landfill facilities for which an escrow account audit for the 2015-16 fiscal year was required to be obtained. We also found that the DEP received 55 escrow account audit reports for the 2015-16 fiscal year addressing 75 of the landfill facilities.¹³ Our review of the 55 audit reports and consideration of the provisions of State law governing the audit requirement disclosed that the usefulness of the required audits could be enhanced by additional provisions in State law requiring:

- CPAs, as part of their audit responsibilities, to opine on the accuracy of local government reported escrow account balances and to determine whether the accounts contained sufficient financial resources for the proper closure of the landfill. In 43 of the 55 audit reports we reviewed, the CPAs opined on the accuracy of local government reported escrow account balances on the schedules of escrow account activities; however, for the 12 other reports, the CPAs did not opine on the account balances nor include schedules of escrow account activities in the reports. In addition, none of the 55 audit reports indicated whether the local governments complied with State law by ensuring the escrow accounts had sufficient financial resources for proper closure of the landfills.
- CPAs to follow specified professional standards, such as the American Institute of Certified Public Accountants (AICPA) auditing standards or generally accepted government auditing standards (GAGAS), while conducting the audits. We found that CPAs sometimes referenced use of different auditing standards. Specifically:
 - In 43 audit reports, CPAs referenced use of AICPA auditing standards¹⁴ for audits of single financial statements and specific elements, accounts, or items of a financial statement, and opined on the schedule of escrow account activities.
 - In 12 audit reports, CPAs referenced use of GAGAS for audits of local governmental entity financial statements and included a footnote to the financial statements to address the escrow account audit requirement.

¹¹ DEP Rule 62-701.630, Florida Administrative Code (FAC).

¹² DEP Rule 62-701.630(5), FAC.

¹³ An escrow account audit report had not been received for 1 landfill facility and several audit reports encompassed more than one landfill facility.

¹⁴ *AICPA Professional Standards AU-C Section 805.*

Specifying the professional standards for CPAs to use for the escrow account audits would provide consistency in the audit methodology and reporting and, therefore, make the results presented in the audit reports more comparable for report users.

- DEP personnel to verify that the audit reports include required information in accordance with DEP rules. We noted that the reports did not always include information required by DEP rules.¹⁵ Specifically:
 - 38 audit reports did not reference the escrow agreement.
 - 20 audit reports did not include a statement as to where the escrow funds are deposited.
 - 17 of the 37 applicable audit reports for escrow accounts with either deposits or withdrawals did not include a list, by date, of all the deposits and withdrawals.
 - 10 audit reports did not include an itemization, by facility, of amounts restricted for landfill closing and long-term care.
- Penalties or other consequences be assessed for landfill owners and operators who do not timely submit the audit reports to the DEP or submit audit reports that lack required information. Such assessments would help discourage untimely and incomplete reports.

Absent statutory provisions delineating the CPA responsibilities for auditing local government escrow accounts, there is an increased risk for CPAs to misunderstand the legislative intent for these audits, apply excessive or insufficient audit procedures, and include excessive information in, or exclude necessary information from, the audit reports. As a result, the local governments may experience significant audit cost variances for these services. In addition, without a statutory requirement for DEP personnel to verify that the audit reports include required information and without the assessment of penalties or other consequences for landfill owners and operators when audit reports are not timely submitted or when audit reports lack required information, there is an increased risk that report users will lack the information necessary to properly evaluate local government landfill owner and operator efforts to provide sufficient financial resources for landfill closures.

Recommendation: We recommend that the Legislature consider revising State law governing local government escrow account audits to require:

- **CPAs to opine on the accuracy of local-government-reported escrow account balances and disclose in the audit reports whether the local governments complied with State law by ensuring that the escrow accounts had sufficient financial resources for proper closure of the landfills.**
- **CPAs to follow specified professional standards, such as AICPA auditing standards or GAGAS, when conducting the audits.**
- **DEP personnel to verify that the audit reports include required information in accordance with DEP rules.**
- **Penalties or other consequences be assessed for landfill owners and operators who do not timely submit audit reports to the DEP or submit audit reports that lack required information.**

¹⁵ Department of Environmental Protection Rule 62-701.630(5)(c), FAC.

Finding 4: Statements of County Compliance

As required by the State Constitution,¹⁶ and implemented by State law,¹⁷ counties are required to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions. Additionally, counties are required to pay reasonable and necessary salaries, costs, and expenses of the State Courts System to meet local requirements specified in State law.

To provide oversight over county expenditures for court-related functions, State law¹⁸ requires each county to annually submit to the State Chief Financial Officer (CFO) a statement of revenues and expenditures in the form and manner prescribed by the CFO. To help implement this requirement, the Department of Financial Services (DFS) adopted rules¹⁹ that require counties to submit to the CFO a statement of county-funded court-related functions report (functions report) that lists respective county revenues and expenditures. Additionally, State law requires that, by January 31 of each year, each county submit to the CFO a statement of compliance from its independent CPA engaged to conduct its annual financial audit indicating that the certified statement of expenditures (in the functions report) was in accordance with State law. Any discrepancies noted by the CPA are to be included in the statement of compliance furnished by the county to the CFO, and DFS rules²⁰ require the statement of compliance to accompany the functions report. To further verify statutory compliance, State law²¹ requires the DFS to determine whether for the fiscal year the counties expended 1.5 percent more for certain court-related functions than the amount expended in the prior fiscal year.

Our review of the 67 counties' CPA statements of compliance submitted to the CFO for the 2015-16 fiscal year and consideration of the provisions of State law governing the functions reports and statements of compliance disclosed that additional statutory provisions could enhance the assurances provided by the reports and statements. Specifically:

- Specifying in State law the professional standards for CPAs to follow, such as the AICPA examination attestation standards or AICPA auditing standards, when conducting the audits would provide consistency in the audit methodology and reporting and, therefore, make the costs of the audits and the results presented in the audit reports more comparable. For the 67 CPA statements of compliance we found that the CPAs:
 - Referenced use of AICPA examination attestation standards²² in 27 statements.
 - Referenced use of AICPA auditing standards²³ in 23 statements.

¹⁶ Article V, Section 14 of the State Constitution.

¹⁷ Section 29.008, Florida Statutes.

¹⁸ Section 29.0085, Florida Statutes.

¹⁹ DFS Rule 69I-69.002, FAC.

²⁰ DFS Rule 69I-69.002(2), FAC.

²¹ Section 29.008(4)(a), Florida Statutes.

²² *AICPA Professional Standards* AT Section 101.

²³ *AICPA Professional Standards* AU-C Section 805.

- Referenced use of AICPA agreed-upon procedures attestation standards²⁴ in 14 statements.
- Did not reference use of any professional standards in 3 statements.
- Requiring DFS personnel to verify that the CPA statements of compliance were prepared in accordance with the requirements in State law, DFS rules, and applicable professional standards. We found that:
 - Contrary to DFS rules, 18 statements of compliance were not accompanied by a functions report. Absent the functions report, users of the 18 statements of compliance may not have access to the expenditure amounts and other expenditure information that, according to the CPAs, were in accordance with State law.
 - Contrary to AICPA agreed-upon procedures attestation standards,²⁵ the 14 statements of compliance referencing use of those standards only indicated that the CPA performed tests of county compliance with State law²⁶ and did not specify the exact nature of the tests. CPAs who adhere to AICPA agreed-upon procedures attestation standards, are prohibited from using terms of uncertain meaning, such as “test,” to describe the procedures performed.²⁷
- Requiring penalties or other consequences be assessed for counties who do not submit CPA statements of compliance to the DFS or submit statements that do not comply with State law, DFS rules, or applicable professional standard requirements.

In addition, the law could be clarified as to what provisions of law are the subject of the CPAs determination of compliance. We noted that CPAs did not always audit county compliance with the same statutory requirements. For example, regarding whether the counties complied with the requirement to expend 1.5 percent more court-related function expenditures than expended in the prior fiscal year, we found that the CPAs who audited:

- 45 counties did not indicate in the statements of compliance that they had determined county compliance with that requirement.
- 18 counties determined that the counties did not comply with that requirement.
- 4 counties determined that the counties complied with that requirement.

Since State law requires the DFS, not the CPAs, to make this determination, CPA determination efforts for the 22 county audits appear unnecessary and duplicative of DFS procedures.

Without clearly prescribing what provisions of law are to be addressed in the CPAs’ determinations of compliance, and identifying the professional standards to follow, there is an increased risk of substandard engagements, inconsistencies in audit procedures, and audit cost variances. In addition, without a statutory requirement for DFS personnel to verify that CPA statements of compliance are properly prepared and establishing penalties or other consequences to be assessed for counties when the statements are not submitted or submitted statements do not comply with the requirements in State law, DFS rules, and applicable professional standards, there is an increased risk that statements of compliance users will lack necessary information to properly evaluate whether counties complied with county court-related funding requirements.

²⁴ AICPA Professional Standards AT Section 201.

²⁵ AICPA Professional Standards AT Section 201.31i.

²⁶ Sections 29.008 and 29.0085, Florida Statutes.

²⁷ AICPA Professional Standards AT Section 210.16.

Recommendation: The Legislature should consider revising State law governing CPA statements of compliance to:

- **Require CPAs to follow specified professional standards, such as AICPA examination attestation standards or AICPA auditing standards, when conducting the audits.**
- **Require DFS personnel to document verification that the CPA statements of compliance were prepared in compliance with State law, DFS rules, and applicable professional standards.**
- **Require penalties or other consequences be assessed for counties that do not submit CPA statements of compliance to the DFS or submit statements that do not comply with the requirements in State law, DFS rules, or applicable professional standards.**
- **Clarify what provisions of law should be addressed in the CPAs' determinations of compliance so that the CPAs' determinations are not duplicative of the compliance determinations the DFS is required to make.**

Finding 5: State of Financial Emergency

State law²⁸ requires that local governmental entities be subject to review and oversight by the Governor when one or more of the conditions specified in State law have occurred or will occur if action is not taken by the State to assist the local governmental entity. For example, one such condition is the failure to make bond debt service or other long-term debt payments when due as a result of a lack of funds.

Upon being notified of a specified condition, the Executive Office of the Governor (EOG) must contact the entity to determine what actions had been taken to resolve or prevent the specified condition. Within 45 days after the date of the request, the entity must provide the EOG with the requested information. If the information is not provided within 45 days of the request, the EOG must notify the Legislative Auditing Committee (LAC).²⁹ The LAC has authority to direct the Department of Revenue and the DFS to withhold, until the entity complies with State law, any funds payable to such entity not pledged for bond debt service satisfaction.

During the period October 2015 through December 2016, the EOG received notifications for 64 local governmental entities that had either met a specified condition or would meet a specified condition unless action was taken to assist the entity. To determine whether the EOG promptly took appropriate action, we examined EOG records supporting notifications for 32 of the 64 entities and found that the EOG:

- Received notifications for 6 community development districts (CDDs) that had defaulted on debt payments due to a lack of funds. Although the EOG received the requested information from the 6 CDDs within the 45-day time frame, the EOG did not make state of financial emergency determinations for the 6 entities until after our inquiries, 186 to 196 days after the EOG received the notifications. In response to our inquiries about the delays, EOG personnel indicated that they needed extra time to research the specifics related to the debt defaults and that the EOG determined none of the 6 entities were in a state of financial emergency. Notwithstanding, delays in determining whether an entity is in a state of financial emergency could result in the entity not timely receiving needed assistance from the State.

²⁸ Section 218.503(1), Florida Statutes.

²⁹ Section 218.503(3), Florida Statutes.

- Did not promptly notify the LAC that 3 of the entities failed to provide requested information within the 45-day time frame. Specifically:
 - In February 2016, the EOG requested information from an entity regarding a 2012-13 fiscal year condition and the entity did not respond to the request; however, the EOG did not notify the LAC that the entity did not respond. In August 2016, the EOG sent another information request to the same entity regarding a 2013-14 fiscal year condition and the entity responded. EOG personnel indicated that the response to the 2013-14 fiscal year information request clarified matters and alleviated EOG concerns for both years.
 - For another entity, EOG personnel indicated that the LAC was not promptly notified because the EOG sent out a second information request to the entity. However, the EOG sent the second information request 210 days after the initial information request, which was 165 days after the 45-day time frame had elapsed.
 - Subsequent to our inquiry in April 2017, the EOG notified the LAC that 1 entity did not fulfill an information request; however, the LAC notification was 356 days after the EOG's initial information request.

In response to our inquiries regarding the delayed LAC notifications, EOG personnel indicated that State law³⁰ did not specify a time frame for notifying the LAC. Notwithstanding the lack of a statutorily specified time frame, without prompt notifications, the LAC's ability to timely contact entities to help facilitate compliance with EOG information requests and timely direct that funds be withheld until the entity complies with State law is diminished.

Recommendation: The EOG should take appropriate steps to ensure that prompt state of financial emergency determinations are made for local governmental entities that meet a specified condition in State law and that the LAC is promptly notified of entities that do not comply with the EOG's request for information within 45 days.

Finding 6: Annual Financial Report Verifications and Verified Report

State law³¹ requires local governmental entities to submit to the DFS an annual financial report (AFR) and, if the local governmental entities meet the audit threshold specified in State law,³² a copy of their audit report. The submission of the AFR and audit report are to occur within 45 days after the completion of the audit report but no later than 9 months after the end of the fiscal year (typically by June 30). For those local governmental entities not subject to the audit requirement, other prescribed information³³ is also to be submitted to the DFS with the AFR by June 30.

In addition, State law³⁴ requires the DFS to annually file, by December 1, a verified report³⁵ with the Governor, the Legislature, the Auditor General, and the Special District Accountability Program of the Department of Economic Opportunity that shows the total revenues, expenditures, and outstanding long-term debt of each local governmental entity, regional planning council, local government finance

³⁰ Section 218.503(3), Florida Statutes.

³¹ Section 218.32(1), Florida Statutes.

³² Section 218.39(1), Florida Statutes.

³³ The other prescribed information includes, for example, additional account details that provide useful information for making financial condition assessments.

³⁴ Section 218.32(2), Florida Statutes.

³⁵ Section 218.31(9), Florida Statutes, defines verified report as a report that has received such test or tests by the DFS to accurately and reliably present the data that have been submitted by the local governmental entities for inclusion in the report.

commission, and municipal power corporation³⁶ required to submit an AFR. For the 2016 year, the DFS complied with this requirement on November 30, 2016, by e-mailing to the statutorily specified parties an electronic link that enabled the recipients to produce a verified report in real-time showing the revenues, expenditures, and long-term debt in total for each entity along with the underlying detailed information.

The information reported in the AFRs includes local government revenue, expenditures, long-term debt, and other data that can be useful for performing financial analyses. Consequently, it is important for the DFS to maintain a copy of the verified report and records that support report preparation, including the dates DFS personnel verified each AFR and any subsequent AFR revision information used to compile the verified report.

To facilitate local governmental entity submittal of AFR data and help the DFS track and compile the data and prepare and file the verified report, the DFS developed a Web-based system referred to as LOGER (Local Government Electronic Reporting). DFS rules³⁷ require entities to complete and electronically submit AFRs to the DFS through LOGER. Local governmental entity personnel enter in LOGER data, such as revenues, expenditures, and long-term debt, from their accounting records. DFS personnel verify an entity's data entered in LOGER by comparing the data to the financial statements included in the submitted audit report, or with other prescribed information from those entities not subject to the audit requirement and contact the entities for clarification when the comparisons yield significant differences.

According to DFS personnel, LOGER does not identify whether an audit report was required. If an entity does not submit an audit report with the AFR, DFS personnel check the Auditor General Web site for the audit report. If the audit report is not available on the Auditor General Web site, DFS personnel send the entity an e-mail, prior to the filing deadline, requesting the report. If the audit report is not submitted by the filing deadline, DFS personnel will send up to two additional e-mails requesting the report. After any concerns are satisfactorily resolved, DFS personnel certify in LOGER that the AFR data has been verified, which allows the AFR data to be included in the verified report. AFR data received by DFS but not yet verified is not included in the verified report. Consequently, to ensure the completeness of the verified report, it is essential that DFS personnel timely verify all the AFRs.

To determine the timeliness of the DFS AFR verification process, we obtained a report from LOGER for the 2014-15 fiscal year showing the AFR and audit report submittal dates as well as whether the entities' AFRs had been verified as of March 22, 2017 (approximately 9 months after the 2014-15 fiscal year AFR submittal deadline and nearly 3 months after the December 2016 verified report). Our examination of the LOGER report disclosed that DFS personnel had verified 2,003 entity AFRs as of March 22, 2017. However, we also found that:

- Although 34 entities submitted the required AFR and audit report and 23 entities (not required to submit an audit report) submitted the required AFR and other prescribed information to DFS prior to December 1, 2016, as of March 22, 2017, DFS personnel had not verified the information and, consequently, the information was not considered in the verified report totals.

We noted that the DFS did not always timely assign verification responsibilities to DFS personnel, which contributed to the delayed data verifications. Our examination of DFS records supporting the 770 AFRs assigned for verification during the period July 1, 2016, through March 22, 2017,

³⁶ Section 218.32(2), Florida Statutes.

³⁷ DFS Rule 69I-51.003, FAC.

disclosed that the DFS assigned verification responsibilities for 489 AFRs 31 to 428 days (average of 66 days) after the AFR data was received. In response to our inquiries, DFS personnel indicated that verification assignments were not always timely made, and information was not always timely verified due, in part, to employee turnover and because LOGER did not readily identify unsubmitted audit reports and other prescribed information.

- 80 entities submitted AFR data to the DFS by the June 30, 2016, deadline but had not submitted the required audit report as of March 22, 2017; therefore, the entities could not have been included in the December 1, 2016, verified report.

Although we requested copies of the DFS e-mails requesting audit reports from the 80 entities, according to DFS personnel, the e-mails could not be provided as they were not retained in DFS records. In response to our inquiries, DFS personnel indicated that the original e-mails to request the audit reports were dated May 22, 2017, which was nearly 11 months after the audit report due date. As such, DFS records did not demonstrate that timely efforts were made to obtain the required audit reports. Without the timely receipt of audit reports, AFR data cannot be timely verified for inclusion in the verified report.

As part of our audit, on October 11, 2017, we generated a verified report from LOGER showing the total revenues, expenditures, and debt for the 2,130 entities for the 2014-15 fiscal year. We then compared totals from the verified report to the detailed AFR data for 10 entities. As shown in Table 1, our comparison disclosed that, for 4 of the 10 entities, the revenue totals from the verified report did not agree with the revenue totals reported in the entity AFRs and, for 3 of those 4 entities, the expenditure totals did not agree.

Table 1
Differences Between AFR and Verified Report Amounts as of October 11, 2017
(in Thousands)

	Total Revenues per Verified Report	Total Revenues per AFR	Difference	Percentage Difference	Total Expenditures per Verified Report	Total Expenditures per AFR	Difference	Percentage Difference
Entity 1	\$15,900	\$20,600	\$4,700	22.8%	\$43,400	\$48,100	\$4,700	9.8%
Entity 2	673	988	315	31.9%	703	703	-	NA
Entity 3	115,900	125,200	9,300	7.4%	97,500	106,700	9,200	8.7%
Entity 4	790	807	17	2.2%	805	822	17	2.1%
Total			<u>\$14,300</u>				<u>\$14,000</u>	

Source: DFS records

Our further review disclosed that the underreported revenues and expenditures totals in the verified report occurred because certain AFR revenue and expenditure data accounts were excluded from the verified report. In response to our inquiries, DFS personnel indicated that DFS records do not identify which AFR revenue and expenditure data accounts are included in the verified report. Therefore, although we requested, a determination of how the data was compiled and why certain AFR revenue and expenditure data accounts were excluded from the verified report could not be provided. Subsequent to our inquiries, DFS personnel matched all AFR revenue and expenditure data accounts against those accounts used in compiling the verified report and identified 12 AFR revenue data accounts and 4 AFR expenditure data accounts that, since at least the 2009 calendar year, had been inadvertently excluded from the verified report. The excluded AFR data accounts included, for example, proprietary fund Federal, State, and

other grants and donations revenue accounts and other nonoperating disbursements expenditure accounts. Excluding the 12 AFR revenue and 4 AFR expenditure data accounts from the verified report caused certain reporting entities information to be misstated, reducing the reliance report users could place on the reported entity revenue and expenditure totals.

As previously noted, the DFS sent an e-mail to the statutorily specified entities providing them an electronic link to the LOGER Web site. Once at the LOGER Web site, a real-time verified report showing the revenues, expenditures, and long-term debt in total for each entity, as well as the underlying detailed information, could be requested. However, since LOGER was updated whenever new AFR data was entered and verified, the verified report information was also updated. DFS personnel indicated that neither LOGER nor other DFS records identified the dates that AFRs were verified or when subsequent AFR revisions were verified, and no electronic or paper copies of the verified reports were maintained in DFS records. As a result, DFS records did not support the data that would have been included in the December 2016 verified report. Without records supporting the data included in the verified report, DFS cannot demonstrate the accuracy and completeness of the reported information that users rely on for decision making.

Recommendation: To enhance the timeliness of AFR verification and promote the accuracy and reliability of the verified report, the DFS should:

- **Improve LOGER functionality to identify those entities required to provide audit reports and the AFRs that are ready for verification upon receipt of either an audit report or other prescribed information.**
- **Assign AFRs to DFS personnel for verification as soon as practical.**
- **Make prompt and appropriate attempts to obtain required audit reports and retain documentation, such as e-mails, evidencing such attempts.**
- **Ensure all applicable AFR data accounts are included in the verified report by establishing procedures to require periodic documented comparisons of AFR data accounts to those used in the verified report.**
- **Maintain a copy of the December verified report and the records that support report preparation, including, but not limited to, the dates that DFS personnel verified the AFR and subsequent AFR revision information.**

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Executive Office of the Governor, the Department of Financial Services, and the Department of Management Services had taken corrective actions for selected findings included in our report Nos. 2009-014, 2011-196, and 2015-037.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts performance audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

The purpose of this performance audit was to determine the accuracy, efficiency, and effectiveness of the local government financial reporting system in achieving its goals and to make recommendations to local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced. The local government financial reporting system should provide for the timely, accurate, uniform, and cost-effective accumulation of financial and other information that can be used by the members of the Legislature and other appropriate officials to accomplish the following goals:

- Enhance citizen participation in local government;
- Improve the financial condition of local governments;
- Provide essential government services in an efficient and effective manner; and
- Improve decision making on the part of the Legislature, State agencies, and local government officials on matters relating to local government.

We conducted this performance audit from February 2017 through January 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The overall objectives of this Local Government Financial Reporting System performance audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, rules, regulations, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those controls.
- To determine whether management had corrected, or was in the process of correcting, selected deficiencies disclosed in our report Nos. 2009-014, 2011-196, and 2015-037.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in

considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- From the population of 220 community redevelopment agencies (CRAs) reported as active by the Florida Department of Economic Opportunity (DEO) as of February 14, 2017, selected 60 CRAs for the 2014-15 fiscal year to determine whether the CRAs met the reporting requirements of Section 163.387(8), Florida Statutes.
- Reviewed applicable laws, policies, and procedures, and interviewed Executive Office of the Governor (EOG) personnel to gain an understanding of and evaluate the EOG's processes for:
 - Determining whether local governmental entities were in a state of financial emergency.
 - Tracking and monitoring entities determined to be in a state of financial emergency.
 - Providing assistance to entities in a state of financial emergency.
 - Removing entities from financial emergency status.
- From the population of 30 local governmental entities reported as being in financial emergency status as of March 21, 2017, determined whether all 30 entities filed an annual audit report, if required by Section 218.39, Florida Statutes, and whether the entities continued to meet specified conditions as defined by Section 218.503(1), Florida Statutes.
- From the population of 77 notifications for 64 local government entities that, during the period October 2015 through December 2016, had either met a specified condition or would meet a specified condition unless action was taken to assist the entity, examined records supporting 32 selected entities to determine whether the EOG timely:
 - Contacted the local governmental entity to obtain information needed to determine whether the entity required State assistance pursuant to Section 218.503(3), Florida Statutes.
 - Notified the Legislative Auditing Committee (LAC) if the entity did not respond to the EOG information request within the 45-day period prescribed by Section 218.503(3), Florida Statutes.
 - Determined whether the entity was in a state of financial emergency.
- Reviewed applicable laws, policies, and procedures, and interviewed Department of Financial Services (DFS) personnel to gain an understanding of and evaluate DFS processes for maintaining a list of entities required to file an annual financial report (AFR) pursuant to Section 218.32(1), Florida Statutes, and a record of entities that filed the AFR; verifying reported AFR

data; and reporting noncompliance to the DEO and LAC pursuant to Section 218.32, Florida Statutes.

- Compared the notifications the DFS provided to the DEO and LAC pursuant to Section 218.32(1)(f), Florida Statutes, for local governmental entities that had not filed a complete AFR to DFS records of AFR submission dates to determine whether the noncompliance notifications were complete and accurate. Specifically, we:
 - Determined whether all 400 entities shown on DFS records as either not submitting a 2014-15 fiscal year AFR or submitting the AFR after the prescribed deadline (June 30, 2016, which is 9 months after the 2014-15 fiscal year end) were included on the DEO and LAC notifications.
 - Determined whether all entities on the DEO and LAC notifications either did not submit an AFR or did not timely submit an AFR according to DFS records.
- Compared the DFS record of 2,074 special districts as of March 20, 2017, to the DEO official list of special districts to determine whether the DFS record of special districts was accurate and complete for determining special districts required to file an AFR. Also, we determined whether the status (active, inactive, or dissolved) of special districts per DFS records were consistent with the status shown on the DEO official list.
- Determined whether the DFS prepared a verified AFR report for the 2014-15 fiscal year and provided the report to the EOG, the Legislature, and the DEO by December 1, 2016, as required by Section 218.32(2), Florida Statutes.
- Examined DFS records to determine whether DFS personnel, as of March 22, 2017, had timely verified the 2014-15 fiscal year AFRs received for which an audit report or other prescribed information, as applicable, had also been received.
- From the population of 1,720 local governmental entities (primary governments and component units) 2014-15 fiscal year AFRs verified to audit reports by DFS personnel as of March 22, 2017, selected 30 AFRs to compare to the respective audit reports to determine the effectiveness of the DFS verification procedures.
- From the population of 2,130 entities (including component units) for which 2014-15 fiscal year AFR data was verified by DFS personnel as of October 11, 2017, selected 10 entities to determine whether revenue, expenditure, and debt totals per LOGER agreed with the supporting AFR data.
- Reviewed applicable laws, policies, and procedures, and interviewed Department of Management Services (DMS) personnel to gain an understanding of and evaluate DMS processes for gathering, cataloging, and maintaining information on all public employee retirement plans in the State. Additionally, we reviewed applicable laws, policies, and procedures, and interviewed DMS personnel to gain an understanding of and evaluate the process for distributing excise taxes on property insurance premiums to police and firefighter pension funds.
- For the 26 local governmental entities during the period October 2015 through August 2016 (i.e., 22 special districts created during that period and 4 entities created before that period, including 2 special districts and 2 municipalities) that switched to the Florida Retirement System (FRS) examined applicable DMS records and determined:
 - For the 22 special districts, whether the DMS timely contacted the entities to obtain data on all public employee retirement systems or plans as soon as possible after the creation of the entity to effectively monitor the local government compliance with the actuarial report and impact statement submittal requirements in accordance with Section 112.63, Florida Statutes.
 - For the 4 other local governmental entities, whether the DMS timely verified that the entities' pension plans were still in effect and, therefore, continued to be subject to Section 112.63, Florida Statutes.

- For the 617 actuarial valuation reports and 265 actuarial impact statements received from October 2015 through December 2016, compared the date the actuarial impact statement was received to the date of acknowledgement for entities that submitted the reports and statements to determine whether the DMS timely acknowledged receipt of the reports and statements in accordance with Section 112.63(4), Florida Statutes.
- From the population of 358 local government police and fire pension funds (168 police pension funds and 190 fire pension funds) that were approved for the distribution of premium taxes for the 2015 calendar year, selected 23 police pension funds and 27 fire pension funds to determine whether the DMS obtained, reviewed, and accepted an actuarial valuation within the 3 years preceding the date of approval for the 2015 calendar year premium taxes distribution in accordance with Sections 175.121 and 185.10, Florida Statutes.
- Reviewed the provisions of Section 29.008 and 29.0085, Florida Statutes, and DFS Rule 69I-69.002, FAC, and evaluated the usefulness of the statement of compliance required by Section 29.0085(2)(a), Florida Statutes.
- Evaluated the procedures and processes used by the DFS to implement the provisions of Section 29.0085(2)(a), Florida Statutes.
- Examined all 67 county 2015-16 fiscal year statements of compliance submitted by independent certified public accountants (CPAs) to the DFS pursuant to Section 29.0085(2)(a), Florida Statutes, to determine whether the CPAs demonstrated a clear understanding of their reporting responsibilities under State law and consistently prepared the statements in accordance with applicable reporting requirements.
- Reviewed the provisions of Section 403.7125, Florida Statutes, and Department of Environmental Protection (DEP) Rule 62-701.630(5), FAC, to gain an understanding about the escrow account audit required by Section 403.7125(2)(b), Florida Statutes.
- Reviewed 2015-16 fiscal year audit reports submitted by independent CPAs to the DEP pursuant to Section 403.7125(2)(b), Florida Statutes, to determine whether the CPAs demonstrated a clear understanding of their audit and reporting responsibilities under State law and consistently prepared the audit reports in accordance with applicable reporting requirements.
- Reviewed Section 218.391, Florida Statutes, and evaluated the potential need for additional statutory provisions to address audit committee responsibilities and audit committee member qualifications.
- To determine whether local governments were effectively using audit committees, surveyed local governments that filed 2015-16 fiscal year audit reports with the Auditor General as of September 15, 2017. We evaluated the survey results to determine whether the local governmental entities, in accordance with Government Finance Officers Association (GFOA) best practices:
 - Had an ordinance, resolution, or written policies and procedures addressing the audit committee.
 - Required audit committees to include, or utilize, individuals with the GFOA-recommended minimum qualifications.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.

- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management responses are included in this report under the heading **MANAGEMENT RESPONSES**.

AUTHORITY

Pursuant to the provisions of Section 11.45(2)(g), Florida Statutes, I have directed that this report be prepared to present the results of our performance audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT RESPONSES



RICK SCOTT
GOVERNOR

STATE OF FLORIDA
Office of the Governor

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

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September 18, 2018

Sherrill F. Norman, CPA
Auditor General, State of Florida
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Ms. Norman:

Please accept our written response from the Executive Office of the Governor to address preliminary & tentative findings that may be included in a report following your performance audit of the Executive Office of the Governor, Local Government Financial Reporting System.

Our enclosed response contains management actions that have been completed and management actions expected to be taken as a result of the audit. This fulfills the requirements of our agency to timely respond, as required by Section 11.45(4)(d), *Florida Statutes*.

We appreciate the assistance from you and your staff in improving our operations. Please contact me at (850) 717-9222 should you have any questions or concerns regarding our response.

Respectfully,

A handwritten signature in blue ink, appearing to read "Dawn Hanson", with a long horizontal flourish extending to the right.

Dawn Hanson
Director of Administration

Enclosure

cc: Brad Piepenbrink, Chief of Staff
Diane Moulton, Director of Executive Staff
Cynthia Kelly, State Budget Director

**Executive Office of the Governor
Response to Preliminary & Tentative Audit Findings and Recommendations for
the Auditor General's Performance Audit of the Local Government Financial
Reporting System**

Finding No. 5:

The Executive Office of the Governor did not always promptly make state of financial emergency determinations for local governmental entities that met a specified condition in State law or notify the Legislative Auditing Committee (LAC) of local governmental entities that did not timely respond to EOG information requests.

Recommendation:

The Executive Office of the Governor should take appropriate steps to ensure that prompt state of financial emergency determinations are made for local governmental entities that meet a specified condition in State law and that the LAC is promptly notified of entities that do not comply with the EOG's request for information within 45 days.

Executive Office of the Governor Response:

We concur with the finding and recommendation.

Corrective Action as of September 18, 2018:

We have implemented a process to ensure that prompt state of financial emergency determinations are made for local governmental entities that meet a specified condition in State law. We have also implemented a process to ensure that the LAC is promptly notified of entities that do not comply with the EOG's request for information within 45 days.

We have a Governor's Fellow that is assisting the Director of Audits with reviewing our financial emergency processes and updating our procedures. We also have an OPS position assigned to process financial emergency documents and information. We are currently updating our financial emergency procedures to reflect the changes that have been implemented to improve our financial emergency processes. We expect to complete our procedure updates by December 31, 2018.



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

September 25, 2018

Sherrill F. Norman
Auditor General
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Pursuant to Section 11.45(4)(d), Florida Statutes, the enclosed response is provided for the preliminary and tentative audit findings included in the Auditor General's audit of the *Local Government Financial Reporting System*.

If you have any questions concerning this response, please contact David Harper, Inspector General, at (850) 413-3112.

Sincerely, .

A handwritten signature in blue ink that reads "Jimmy Patronis".

Jimmy Patronis
Chief Financial Officer

JP/eps
Enclosure
c: David Harper, Inspector General

**DEPARTMENT OF FINANCIAL SERVICES
LOCAL GOVERNMENT FINANCIAL REPORTING SYSTEM
PERFORMANCE AUDIT**

RESPONSE TO PRELIMINARY AND TENTATIVE AUDIT FINDINGS

Finding No. 6: Annual Financial Report Verifications and Verified Report

The Department of Financial Services (DFS) did not always timely assign annual financial report (AFR) verification responsibilities to DFS personnel nor was AFR information always timely verified. We also identified 80 local governmental entities required to submit 2014-15 fiscal year audit reports to the DFS that did not submit the reports, and DFS records did not always evidence attempts to obtain the reports from those entities. In addition, our comparison of the 2014-15 fiscal year verified report totals generated from the DFS Web-based Local Government Electronic Reporting system to the related AFR data for 10 entities disclosed that the verified report excluded revenues totaling \$14.3 million and expenditures totaling \$14 million that were reported in the individual entity AFRs. Further, DFS records did not evidence electronic or paper copies of the December 2016 verified report provided to statutorily specified parties nor the basis for the data included in the report.

Recommendation: To enhance the timeliness of AFR verification and promote the accuracy and reliability of the verified report, the DFS should:

- Improve LOGER functionality to identify those entities required to provide audit reports and the AFRs that are ready for verification upon receipt of either an audit report or other prescribed information.
- Assign AFRs to DFS personnel for verification as soon as practical.
- Make prompt and appropriate attempts to obtain required audit reports and retain documentation, such as e-mails, evidencing such attempts.
- Ensure all applicable AFR data accounts are included in the verified report by establishing procedures to require periodic documented comparisons of AFR data accounts to those used in the verified report.
- Maintain a copy of the December verified report and the records that support report preparation, including, but not limited to, the dates that DFS personnel verified the AFR and subsequent AFR revision information.

Response: DFS concurs with the finding. DFS is working with our Office of Information Technology to enhance LOGER functionality and is in the process of developing our Business Requirements Document for these enhancements. Additionally, DFS has included funding for LOGER enhancements in the Legislative Budget Request.

DFS is in the process of making procedural changes to timely assign AFRs to DFS personnel for timely verification. In addition, these procedural changes will include documenting DFS's timely attempts to obtain required audit reports, and to save and maintain an electronic copy of the December certified report and records that support report preparation.

7 Department of Lottery
Audit for 2018-19 FY

24.123 Annual audit of financial records and reports.—

(1) The Legislative Auditing Committee shall contract with a certified public accountant licensed pursuant to chapter 473 for an annual financial audit of the department. The certified public accountant shall have no financial interest in any vendor with whom the department is under contract. The certified public accountant shall present an audit report no later than 7 months after the end of the fiscal year and shall make recommendations to enhance the earning capability of the state lottery and to improve the efficiency of department operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on those controls in effect during the audit period. The cost of the annual financial audit shall be paid by the department.

(2) The Auditor General may at any time conduct an audit of any phase of the operations of the state lottery and shall receive a copy of the yearly independent financial audit and any security report prepared pursuant to s. 24.108.

(3) A copy of any audit performed pursuant to this section shall be submitted to the secretary, the Governor, the President of the Senate, the Speaker of the House of Representatives, and members of the Legislative Auditing Committee.