

11.6 Audits of governmental subdivisions and related organizations — consultative services.

1. *a.* (1) Except for entities organized under chapter 28E having gross receipts of one hundred thousand dollars or less in a fiscal year, the financial condition and transactions of all government subdivisions shall be audited annually, except that cities having a population of less than two thousand and budgeted gross expenditures of one million dollars or more in a fiscal year shall be subject to a required fiscal year examination for that fiscal year according to procedures established by the office of auditor of state, and cities having a population of less than two thousand and budgeted gross expenditures of less than one million dollars in a fiscal year shall be subject to periodic examination by the auditor of state according to procedures established by the auditor of state, and may be examined as otherwise provided in this section. However, a city having a population of less than two thousand and budgeted gross expenditures of one million dollars or more in a fiscal year shall not be subject to a required fiscal year examination until the city has two consecutive years of budgeted gross expenditures of one million dollars or more in both fiscal years, and such examination shall be conducted during the second of such fiscal years. A city meeting the requirements for a periodic examination shall be subject to an examination under this section at least once during an eight-year period at a time determined by the auditor of state. The audit of school districts shall include an audit of all school funds including categorical funding provided by the state, the certified annual financial report, the certified enrollment as provided in section 257.6, supplementary weighting as provided in section 257.11, the revenues and expenditures of any nonprofit school organization established pursuant to section 279.62, and entrepreneurial education funds established pursuant to section 298A.15. Differences in certified enrollment shall be reported to the department of management. The audit of school districts shall include at a minimum a determination that the laws of the state are being followed, that categorical funding is not used to supplant other funding except as otherwise provided, that supplementary weighting is pursuant to an eligible sharing condition, and that postsecondary courses provided in accordance with section 257.11 and chapter 261E supplement, rather than supplant, school district courses. The audit of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include performing tests of the city's compliance with section 388.10. The audit of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include performing tests of the city's compliance with section 388.10.

(2) Subject to the exceptions and requirements of subsections 2 and 3, and subsection 4, paragraph "a", subparagraph (3), audits or required fiscal year examinations shall be made as determined by the governmental subdivision either by the auditor of state or by certified public accountants, certified in the state of Iowa, and they shall be paid from the proper public funds of the governmental subdivision. However, a periodic examination of a city shall be conducted by the auditor of state or by a certified public accountant employed by the auditor of state pursuant to section 11.32, and shall be paid from examination fees collected pursuant to subsection 11.

b. The financial condition and transactions of community mental health centers organized under chapter 230A, substance abuse programs organized under chapter 125, and community action agencies organized under chapter 216A, shall be audited at least once each year.

c. (1) In conjunction with the audit of the governmental subdivision required under this section, the auditor shall also perform tests for compliance with the investment policy of the governmental subdivision. The results of the compliance testing shall be reported in accordance with generally accepted auditing standards. The auditor may also make recommendations for changes to investment policy or practices. The governmental subdivision is responsible for the remedy of reported noncompliance with its policy or practices.

(2) (a) As part of its audit, the governmental subdivision is responsible for obtaining and providing to the auditor the audited financial statements and related report on internal control of outside persons, performing any of the following during the period under audit for the governmental subdivision:

(i) Investing public funds.

- (ii) Advising on the investment of public funds.
- (iii) Directing the deposit or investment of public funds.
- (iv) Acting in a fiduciary capacity for the governmental subdivision.

(b) The audit under this section shall not be certified until all material information required by this subparagraph is reviewed by the auditor.

(3) The review by the auditor of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, pursuant to 17 C.F.R. § 270.30d-1 or the review, by the auditor, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this paragraph.

(4) All contracts or agreements with outside persons performing any of the functions listed in subparagraph (2) shall require the outside person to notify in writing the governmental subdivision within thirty days of receipt of all communication from the auditor or any regulatory authority of the existence of a material weakness in internal control, or regulatory orders or sanctions against the outside person, with regard to the type of services being performed under the contracts or agreements. This provision shall not be limited or avoided by another contractual provision.

(5) As used in this subsection, “*outside person*” excludes a bank, savings and loan association, or credit union when acting as an approved depository pursuant to chapter 12C.

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

(7) If during the course of an audit of a joint investment trust organized pursuant to chapter 28E, the auditor determines the existence of a material weakness in the internal control or a material violation of the internal control, the auditor shall report the determination to the joint investment trust which shall notify the administrator in writing within twenty-four hours, and provide a copy of the notification to the auditor. The auditor shall provide, within twenty-four hours of the receipt of the copy of the notice, written acknowledgment of the receipt to the administrator. If the joint investment trust does not make the notification within twenty-four hours, or the auditor does not receive a copy of the notification within twenty-four hours, the auditor shall immediately notify the administrator in writing of the material weakness in the internal control or the material violation of the internal control.

2. A governmental subdivision contracting with certified public accountants shall do so in a reasonable manner on the basis of competence and qualification for the services required and for a fair and reasonable price utilizing procedures which include a written request for proposals.

3. A township or city for which audits are not required under subsection 1 may contract with or employ the auditor of state or certified public accountants for an audit or examination of its financial transactions and condition of its funds. An audit is mandatory on application by one hundred or more taxpayers, or if there are fewer than six hundred sixty-seven taxpayers in the township or city, then by fifteen percent of the taxpayers. Payment for the audit or examination shall be made from the proper public funds of the township or city.

4. a. In addition to the powers and duties under other provisions of the Code, the auditor of state may at any time cause to be made a complete or partial reaudit of the financial condition and transactions of any governmental subdivision, or an office of any governmental subdivision, if any of the following conditions exists:

(1) The auditor of state has probable cause to believe such action is necessary in the public interest because of a material deficiency in an audit of the governmental subdivision filed with the auditor of state or because of a substantial failure of the audit to comply with the standards and procedures established and published by the auditor of state.

(2) The auditor of state receives from an elected official or employee of the governmental subdivision a written request for a complete or partial reaudit of the governmental subdivision.

(3) The auditor of state receives a petition signed by at least one hundred eligible electors of the governmental subdivision requesting a complete or partial reaudit of the governmental subdivision. If the governmental subdivision has not contracted with or employed a certified public accountant to perform an audit of the fiscal year in which the petition is received by the auditor of state, the auditor of state may perform an audit required by subsection 1 or 3.

b. The reaudit shall be paid from the proper public funds available in the office of the auditor of state. In the event the audited governmental subdivision recovers damages from a person performing a previous audit due to negligent performance of that audit or breach of the audit contract, the auditor of state shall be entitled to reimbursement on an equitable basis for funds expended from any recovery made by the governmental subdivision.

5. The auditor of state may, within three years of filing, during normal business hours upon reasonable notice of at least twenty-four hours, review the audit work papers prepared in the performance of an audit or examination conducted pursuant to this section.

6. An audit required by this section shall be completed within nine months following the end of the fiscal year that is subject to the audit. At the request of the governmental subdivision, the auditor of state may extend the nine-month time limitation upon a finding that the extension is necessary and not contrary to the public interest and that the failure to meet the deadline was not intentional.

7. The auditor of state shall make guidelines available to the public setting forth accounting and auditing standards and procedures and audit and legal compliance programs to be applied in the audit of the governmental subdivisions of the state, which shall require a review of internal control and specify testing for compliance. The guidelines shall include a requirement that the certified public accountant and governmental subdivision immediately notify the auditor of state regarding any suspected embezzlement, theft, or other significant financial irregularities. The auditor of state shall also provide standard reporting formats for use in reporting the results of an audit of a governmental subdivision.

8. The auditor of state shall provide advice and counsel to public entities and certified public accountants concerning audit and examination matters. The auditor of state shall adopt rules in accordance with chapter 17A to establish a fee schedule based upon the prevailing rate for the service rendered. The auditor of state shall obtain payment from a public entity or certified public accountant for advisory and consultation services rendered pursuant to this subsection. The auditor of state may waive any charge provided in this subsection and may determine to provide certain services without cost.

9. Accounts of the Iowa state association of counties, the Iowa league of cities, and the Iowa association of school boards shall be audited annually by either the auditor of state or a certified public accountant certified in the state of Iowa. The audit shall state all moneys expended for expenses incurred by and salaries paid to legislative representatives and lobbyists of the association audited.

10. The auditor of state shall adopt rules in accordance with chapter 17A to establish and collect a filing fee for the filing of each report of audit or examination conducted pursuant to subsection 1, paragraphs "a" and "c", subsection 2, and subsection 3. The funds collected shall be maintained in a segregated account for use by the office of the auditor of state in performing audits conducted pursuant to subsection 4 and for work paper reviews conducted pursuant to subsection 5. Any funds collected by the auditor pursuant to subsection 4 shall be deposited in this account. Notwithstanding section 8.33, the funds in this account shall not revert at the end of any fiscal year.

11. a. The auditor of state shall adopt rules in accordance with chapter 17A to establish and collect a periodic examination fee from cities that are not required to have an audit or required fiscal year examination conducted pursuant to subsection 1 during a fiscal year. Such fees are due on March 31 each year. The auditor of state shall base the fees on a sliding scale, based on the city's budgeted gross expenditures, to produce total revenue of not more than three hundred seventy-five thousand dollars for each fiscal year. However, cities that pay a filing fee for an audit or examination pursuant to subsection 10 during the fiscal

year are not required to pay the examination fee. The funds collected shall be maintained in a segregated account for use by the office of the auditor of state in performing periodic examinations conducted pursuant to subsection 1. However, if the fees collected in one fiscal year exceed three hundred seventy-five thousand dollars, the auditor of state shall apply the excess funds to provide training to city officials on municipal financial management or shall contract with a qualified organization to provide such training. Notwithstanding section 8.33, any fees collected by the auditor of state for these purposes that remain unexpended at the end of the fiscal year shall not revert to the general fund of the state or any other fund but shall remain available for use for the following fiscal year for the purposes authorized in this subsection.

b. The auditor of state shall provide an annual report by January 15 of each year to the general assembly's standing committees on government oversight, advising the general assembly on the status of the account created in this subsection and on the status of the required fiscal year examinations and periodic examinations of cities.

12. Each governmental subdivision shall keep its records and accounts in such form and by such methods as to be able to exhibit in its reports the matters required by the auditor of state, unless a form or method is otherwise specifically prescribed by law. Each governmental subdivision shall keep its records and accounts in current condition.

[S13, §100-d, 1056-a11, -a13; C24, 27, 31, 35, 39, §113; C46, 50, 54, 58, 62, 66, 71, §11.6; C73, 75, 77, 79, 81, §11.6, 332.3(27); S81, §11.6; 81 Acts, ch 117, §1000]

84 Acts, ch 1123, §1; 84 Acts, ch 1128, §1; 89 Acts, ch 264, §1; 90 Acts, ch 1013, §1; 91 Acts, ch 267, §222; 92 Acts, ch 1156, §2 – 4; 92 Acts, ch 1187, §1; 92 Acts, ch 1232, §301; 92 Acts, ch 1242, §16, 17; 96 Acts, ch 1215, §20; 2004 Acts, ch 1022, §1; 2004 Acts, ch 1048, §1; 2005 Acts, ch 179, §90; 2006 Acts, ch 1117, §1; 2008 Acts, ch 1032, §118 – 120; 2008 Acts, ch 1181, §42; 2011 Acts, ch 75, §10 – 19; 2012 Acts, ch 1107, §1, 2, 4; 2013 Acts, ch 71, §1, 4; 2013 Acts, ch 129, §45, 46

Referred to in §11.19, 11.24, 15J.7, 123.58, 125.55, 216A.98, 230A.110, 256F.4, 257.6, 279.38, 331.402, 331.902, 358C.12, 364.5, 388.10, 403.23, 411.5

[T] 2012 amendments to subsection 1, paragraph a, and adding subsection 11 take effect July 1, 2013; 2012 Acts, ch 1107, §4

[T] See Code editor's note on simple harmonization

[T] Subsection 1, paragraph a amended

[T] Subsection 10 amended

[T] NEW subsection 11 and former subsection 11 renumbered as 12