Audit of Hillsborough Co. Superv. of Elections

Number: INFORMAL

Date: October 09, 2009

Ms. Renee Francis Lee
Hillsborough County Attorney
601 East Kennedy Boulevard
27th Floor
Tampa, Florida 33602-4910

Dear Ms. Lee:

Thank you for forwarding a copy of the Ernst & Young Audit of the Hillsborough County Supervisor of Elections for the year ending on September 30, 2008, to this office.

You state that the report has been forwarded for review by the Attorney General's Office and any action this office deems appropriate. This office, however, has no specific authority over the actions taken by the supervisor of elections. I would generally note, however, that pursuant to Part III, Chapter 218, Florida Statutes, the "Uniform Local Government Financial Management and Reporting Act," local governmental entities are required to file annual financial reports with the Department of Financial Services. Section 218.32(1)(a), (d) and (e), Florida Statutes, respectively provide:

"(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. 189.403, shall submit to the department a copy of its annual financial report for the previous fiscal year in a format prescribed by the department. . . .

(d) Each local governmental entity that is required to provide for an audit in accordance with s. 218.39(1) must submit the annual financial report with the audit report. A copy of the audit report and annual financial report must be submitted to the department within 45 days after the completion of the audit report but no later than 12 months after the end of the fiscal year.

(e) Each local governmental entity that is not required to provide for an audit report in accordance with s. 218.39 must submit the annual financial report to the department no later than April 30 of each year. . . ."[1]

County fee officers are required by section 116.03, Florida Statutes, to make a report to the Department of Financial Services of all such fees, commissions, or other remuneration collected, including the source, character, and amount of all his or her official expenses and the net amount that the office has paid up to the time of making such report, although section 218.36, Florida Statutes, exempts the officer from making such report if the officer has complied with the requirements of that statute.[2]

In addition, I note that section 17.041(1), Florida Statutes, provides that it is the duty of the Chief

Financial Officer to adjust and settle, or cause to be adjusted and settled, all county accounts and claims reported to it by "the Auditor General, the appropriate county or district official, or any person against all county and district officers and employees, and against all other persons entrusted with, or who may have received, any property, funds, or moneys of a county or district or who may be in anywise indebted to or accountable to a county or district for any property, funds, moneys, or other thing of value . . . ."[3]

You may, therefore, wish to contact that office on this matter. Finally, I would note that county financial audit reports conducted pursuant to section 218.39, Florida Statutes, and the officer's written statement of explanation or rebuttal are to be submitted to the Auditor General within 45 days after delivery of the audit report to the entity's governing body, but no later than 12 months after the end of the fiscal year.[4]

Thank you for contacting the Attorney General's Office.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tsh

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[1] *See* s. 218.31(4), Fla. Stat., defining "[d]epartment" as the Department of Financial Services.

[2] *See* s. 218.36(4), Fla. Stat.

[3] *But see* s. 17.041(7), Fla. Stat., providing:

"Nothing in this section shall supersede the continuing duty of the proper county and district officers to require any officer, employee, or person to render full accounts of and to yield up according to law to the officer or authority entitled by law to receive the same, any property, funds, moneys, or other thing of value as to which such officer, employee, or person is in anywise indebted to or accountable to such county or district. The provisions of this section provide for collections and recoveries which the proper county or district officers have failed to make, and for correction of settlements made in an amount or manner other than as authorized by law."

[4] Section 218.39(8), Fla. Stat. *And see* s. 11.45, Fla. Stat., setting forth the circumstances under which the Auditor General will audit a county agency.