# CHAPTER 147

# AUDITING

## §1621. Authorization of audit

Whenever it seems advisable to the Governor, the Governor may cause the books and accounts of the State or any department or agency thereof to be audited and for that purpose may employ auditors other than those employed by the Office of the State Auditor. [PL 1993, c. 410, Pt. C, §2 (AMD); PL 2013, c. 16, §10 (REV).]

SECTION HISTORY

PL 1975, c. 771, §74 (AMD). PL 1993, c. 410, Pt. C, §2 (AMD). PL 2013, c. 16, §10 (REV).

## §1622. Recovery of certain state agency overpayments

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Overpayment" means a payment made to a vendor:

(1) In duplicate for a single invoice;

(2) In the amount of a discount available from the vendor that was not applied;

(3) For a late payment penalty that was improperly applied by the vendor;

(4) For shipping costs that were computed incorrectly or incorrectly included in an invoice;

(5) For any commodities billed at an amount higher than negotiated in a contract or master agreement;

(6) For a state tax imposed pursuant to Title 36; or

(7) For a good or service the vendor did not provide. [PL 2011, c. 21, §1 (NEW).]

B. "State agency" means a department, commission, board, office or other entity that is in the executive branch of State Government. [PL 2011, c. 21, §1 (NEW).]

[PL 2011, c. 21, §1 (NEW).]

**2. Recovery audits for certain overpayments.** In addition to the audit authorized pursuant to section 1621, at least once every 10 years the State Controller shall contract with one or more consultants to conduct recovery audits of payments made by state agencies to vendors. The audits must be designed to detect and recover overpayments to the vendors and to recommend improved state agency accounting operations. A state agency shall provide the recovery audit consultant all information necessary for the audit.

A. A contract under this subsection:

(1) May provide for reasonable compensation for services provided under the contract, including compensation determined by the application of a specified percentage of the total amount recovered because of the consultant's audit activities or recommendations as a fee for services; and

(2) To allow time for the performance of existing state payment auditing procedures, may not allow a recovery audit of a payment during the 180-day period after the date the payment was made. [PL 2011, c. 21, §1 (NEW).]

B. Notwithstanding any law to the contrary, the State Controller or a state agency whose payments are being audited may provide a person acting under a contract authorized by this subsection with

any confidential information in the custody of the State Controller or state agency that is necessary for the performance of the audit or the recovery of an overpayment, to the extent the State Controller and state agency are not prohibited from sharing the information under an agreement with another state or the Federal Government. A person acting under a contract authorized by this subsection, and each employee or agent of that person, is subject to all prohibitions against the disclosure of confidential information obtained from the State in connection with the contract that apply to the State Controller or applicable state agency or an employee of the State Controller or applicable state agency. A person acting under a contract authorized by this subsection or an employee or agent of the person who discloses confidential information in violation of a prohibition under this subsection is subject to the same sanctions and penalties that would apply to the State Controller or applicable state agency or an employee of the State Controller or applicable state agency for that disclosure. [PL 2011, c. 21, §1 (NEW).]

[PL 2011, c. 21, §1 (NEW).]

**3. Funds recovered and payments to consultants.** The State Controller shall deposit all recovered money in a nonlapsing Other Special Revenue Funds audit recovery account within the Department of Administrative and Financial Services. From the audit recovery account, the State Controller shall make payment to a consultant that conducts a recovery audit under subsection 2 according to the negotiated contract and refund amounts in accordance with state or federal regulations. Any amounts not refunded or paid to the consultant must be identified in the report pursuant to subsection 4.

[PL 2011, c. 21, §1 (NEW).]

**4. Reports.** The State Controller shall provide the following reports.

A. Within 7 days of receipt, the State Controller shall provide copies of any reports, including those in electronic form, received from a consultant contracted with pursuant to subsection 2 to:

(1) The Governor;

(2) The State Auditor; and

(3) The Legislative Council. [PL 2011, c. 21, §1 (NEW).]

B. Not later than December 1st of each odd-numbered year, the State Controller shall issue a report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over state and local government matters summarizing the contents of all reports received from a consultant contracted pursuant to subsection 2 during the state fiscal biennium ending June 30th of that year. [PL 2011, c. 21, §1 (NEW).]

[PL 2011, c. 21, §1 (NEW).]

**5. Rules.** The State Controller may adopt rules to implement the provisions of this section. Rules adopted under this subsection are major substantive rules pursuant to chapter 375, subchapter 2-A.

[PL 2011, c. 21, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 21, §1 (NEW).

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