



LEGISLATION

CHAPTER 20

50-20-1.

The intent of this chapter is to provide auditing and reporting requirements for nonprofit organizations which provide services and facilities to the state, to ensure the financial accountability of nonprofit contractors, and to develop adequate information concerning nonprofit contractors. The General Assembly finds that the state has a right and a duty to monitor nonprofit organizations which contract with the state to ensure that their activities are in the public interest and to ensure that public funds are used for proper purposes.

50-20-2.

As used in this chapter, the term:

- (1) '**Corrective action plan**' means a plan of corrective action prepared by the nonprofit organization which addresses each audit finding included in the auditor's report. The corrective action plan shall provide the name or names of the contact person or persons responsible for the corrective action, the corrective action planned, and the anticipated completion date. If the nonprofit organization does not agree with audit findings or believes corrective action is not required, the corrective action plan shall then include an explanation and specific reasons.
- (2) '**Generally accepted accounting principles**' means generally accepted accounting principles specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants.
- (3) '**Generally accepted auditing standards**' means auditing standards issued by the American Institute of Certified Public Accountants for the conduct and reporting of financial audits.
- (4) '**Generally accepted government auditing standards**' means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.
- (5) '**Nonprofit organization**' means any corporation, trust, association, cooperative, or other organization that is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; is not organized primarily for



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profit; and uses its net proceeds to maintain, improve, or expand its operations. The term nonprofit organization includes nonprofit institutions of higher education and hospitals. For financial reporting purposes guidelines issued by the American Institute of Certified Public Accountants should be followed in determining nonprofit status.

(6) **'Reporting package'** means a package of documents containing a specified audit report, a summary schedule of prior year audit findings, and a corrective action plan for unresolved prior year and current year audit findings. Each audit report should include a schedule of findings and questioned costs and, if deemed necessary by the head of the contracting state organization, a schedule of state awards expended.

(7) **'Schedule of state awards expended'** means a schedule arranged by state program name and contract number which reflects revenues, expenditures, or expenses and amounts owed to or due from each state organization. Amounts listed for each program should include state or federal funds, or both, which pass through state organizations to the nonprofit contractor.

(8) **'State awards'** means state or federal funds, or both, received from state organizations through contractual agreement.

(9) **'State awards expended'** means the disbursement or obligation of state awards by a nonprofit organization.

(10) **'State funds'** means that portion of contracts funded by state appropriations or other revenue sources retained by the contracting state organization but does not include federal pass-through assistance. State funds represent the basis for determination of appropriate audit requirements set forth in paragraphs (1) and (2) of subsection (b) of Code Section 50-20-3.

(11) **'State organization'** means any organization included within the state financial reporting entity. Such organizations include all departments, boards, bureaus, commissions, authorities, and other such organizations whose financial activities and balances are included within the State of Georgia Comprehensive Annual Financial Report.

(12) **'Summary schedule of prior year audit findings'** means a schedule reporting the status of all audit findings included in the prior audit's schedule of findings and questioned costs. The schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings which were listed as uncorrected.



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50-20-3.

(a) Before entering into a financial agreement with a nonprofit organization, the head of the contracting state organization shall require the nonprofit organization to furnish financial and such other information as he or she may deem necessary to establish whether or not the nonprofit organization is financially viable and capable of providing services contemplated in the contract and that the agreement does not violate Chapter 10 of Title 45 related to conflicts of interest. Such information may include financial statements, Internal Revenue Service exempt status determination letters, Internal Revenue Service exempt organization information returns, and other related materials.

(b) State organizations which have entered into a financial agreement with a nonprofit organization shall require:

(1) A nonprofit organization which has expended \$100,000.00 or more during its fiscal year in state funds to provide for and cause to be made annually an audit of the financial affairs and transactions of all the nonprofit organization's funds and activities. The audit shall be performed in accordance with generally accepted auditing standards.

(2) A nonprofit organization which has expended less than \$100,000.00 in a fiscal year in state funds shall forward to the state auditor and each contracting state organization a copy of the nonprofit organization's financial statements. If annual financial statements are reported upon by a public accountant, the accountant's report must accompany them. If not, the annual financial statements must be accompanied by the statement of the president or person responsible for the nonprofit organization's financial statements:

(A) Stating the president's or other person's belief as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(B) Describing any respects in which the statements were not prepared on a basis consistent with the statements prepared for the preceding year.

(3) A nonprofit organization which receives funds from a state organization, and which meets the federal audit requirements of the Single Audit Act Amendments of 1996 shall submit audit reports and reporting packages performed in accordance with Office of Management and Budget regulations.

(c) All financial statements required in paragraphs (1) and (3) of subsection (b) of this Code section shall be prepared in conformity with generally accepted accounting principles.



(d) Audits made in accordance with this Code section shall be in lieu of any financial audit or reporting requirements under individual state awards. Audits and financial statements required under this Code section, however, shall neither limit the authority of state organizations or the state auditor to conduct or arrange for additional audits of nonprofit organizations contracting with the state. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors and shall be funded by the contracting state organization.

(e) Reporting packages or financial statements shall be forwarded to the state auditor and each contracting state organization within 180 days after the close of the nonprofit organization's fiscal year. The state auditor, for good cause, may waive the requirement for completion of an audit within 180 days. Such waiver shall be for an additional period of not more than 90 days, and no such waiver shall be granted for more than two successive years to the same nonprofit organization. The state auditor may prescribe an electronic format for financial statement and audit package submission purposes.

(f) Nonprofit organizations which receive funds from state organizations shall refrain from political activities, including endorsement of any political candidate or party, use of machinery, equipment, postage, stationery, or personnel on behalf of any candidate or any question of public policy subject to referendum.

50-20-4.

(a) The state auditor shall review the nonprofit organization's reporting package or financial statements to ensure compliance with the requirements for audits and financial statement presentation for nonprofit organizations. If the state auditor finds such requirements have not been met, the state auditor within 60 days of receipt of the reporting package or financial statements shall submit a list of deficiencies to be corrected to the nonprofit organization and, if appropriate, to the auditor who performed the audit and to the affected state organizations.

(b) If the state auditor has not received the required reporting package or financial statements by the date specified in subsection (e) of Code Section 50-20-3, the state auditor shall within 30 days of such date notify the appropriate state organizations to cease all payments to the nonprofit organization.

(c) The state auditor shall promptly notify appropriate law enforcement officials of any reported irregularities or illegal acts.



50-20-5.

(a) It shall be the duty of the contracting state organization to determine the financial viability of the nonprofit organization as described in subsection (a) of Code Section 50-20-3 before entering into a financial agreement with a nonprofit organization and to monitor the performance of the nonprofit organization under terms of the financial agreement.

(b) State organizations entering into agreements with nonprofit organizations shall report to the state auditor all such agreements and shall provide each individual nonprofit organization's name, fiscal year end, contract amount, and other information as required by the state auditor.

(c) When contracting with a nonprofit organization, a state organization shall provide the nonprofit organization with the following financial and compliance information:

(1) Identification of any state funds included as part of the contract. Such identification should include the contract number.

(2) Identification of any federal pass-through assistance included as part of the contract. Such identification should include the Catalog of Federal Domestic Assistance number; and

(3) Identification of requirements imposed by federal laws, regulations, and the provisions of contracts as well as any state or supplementary requirements imposed by state law or the contributing state organization.

(d) State organizations contracting with nonprofit organizations shall review the corrective action plans to ensure that appropriate corrective action has been taken by the nonprofit organization. If the corrective action listed is determined to be inappropriate, the state organization should formally request additional corrective action by the nonprofit organization. No state organization shall transfer to a nonprofit organization any public funds from any source if a nonprofit organization does not take appropriate corrective action for findings determined to be significant by the state organization.

50-20-6.

(a) A nonprofit organization which receives state awards from a state organization and which, after having received the funds, does not comply with this chapter shall be required to repay the funds to the state organization and shall be prohibited from



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receiving funds from any state organization for a period of 12 months from the date of notification by the state organizations or the state auditor of the failure to comply.

(b) This Code section shall be cumulative to any other penalties applicable to the misuse of public funds.

50-20-7.

All reporting packages, financial statements, audit reports, and other schedules required by this chapter shall be public records and shall be made available for public inspection during regular office hours.

50-20-8.

(a) Except as provided in paragraphs (1) through (3) of subsection (b) and paragraphs (1) and (2) of subsection (c) of this Code section, all contracts between a nonprofit organization and a state organization shall be subject to this chapter.

(b) This chapter shall not apply to:

- (1) Procurement contracts used to buy goods or services from vendors.
- (2) Individual employment contracts; and
- (3) Benefit payments or other related payments made by state organizations to a nonprofit organization on behalf of individuals for health care or other services.

(c) The provisions of subsection (b) of Code Section 50-20-3 shall not apply to the following:

- (1) Nonprofit organizations affiliated with the University System of Georgia which are organized or operated primarily for the purpose of serving, soliciting, receiving, and investing gifts and donations in the name of the board of regents or individual units of the University System of Georgia or related programs and which expend less than \$25,000.00 in state awards.
- (2) Nonprofit organizations affiliated with the State Board of the Technical College System of Georgia or with postsecondary technical schools operated under the state level management and operational control of the State Board of the Technical College System of Georgia which organizations are operated primarily for the purpose of serving, soliciting, receiving, and investing gifts and



donations for the board, such schools, or related programs and which expend less than \$25,000.00 in state awards; and

(3) Nonprofit organizations which expend less than \$25,000.00 in state awards."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.