

Pat Frank

Charter Review Board

April 30, 2010

Good Morning. First, let me commend all of you for the public service you perform, as members of the Charter Review Board. It may seem like a thankless task at times, because of the nature of local government and its challenges, but it serves a very important role. You have an enormous task, and I applaud your service to the people of Hillsborough County.

I appreciate the opportunity to address you, to share my firsthand experience with the County Audit function, as Clerk of the Circuit Court.

Sometimes in life, ironies abound, and this is certainly one of these times. It was ten years ago, in July 2000, that I appeared before the previous Charter Review Board on this very subject.

I was then Chairman of the Board of County Commissioners – and I had a far different perspective. I came to advocate for a budget analyst to assist the Board, one who was separate and independent from the administrative staff.

At that time, the late Ralph Hughes, a political activist many of you knew, lobbied for a performance auditor, whom he felt should perform independent audits. I remember being asked if this position would conflict with the duties of the Clerk of the Court, and I said, “No,” since the Clerk doesn’t do performance audits.

The Charter Review Board approved the measure and it was put on the ballot and approved by the voters in 2002.

In 2004, I first ran for Clerk of the Circuit Court, which is an independent constitutional office. According to the

Constitution of the State of Florida, in Article VIII on Local Government, Section 1 (d), it states: “(When not otherwise provided by county charter or special law approved by vote of the electors), the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.”

The Clerk’s role as county auditor was reinforced formally in 1991 by a Tri-Party Agreement among the Clerk, the BOCC and the County Administrator, through a “Statement of Purpose, Authority and Responsibility.”

And since 1998, the Clerk’s Audit Department has met stringent standards set by both the U.S. Government Accountability Office – or what is commonly known as the

“yellow book” – and the Institute of Internal Auditors – or “red book.”

To receive those designations, we have had an external quality assurance review of our Clerk Audit Department every three years. In each of those reviews, we have met the highest standard. We are now in the process of issuing an RFP for 2010 for our next review. Also, all Clerk Audit employees sign a Code of Ethics and Conflict of Interest every year. As you can see, we set the bar very high, as we should.

You may recall that it was less than one year ago, in July 2009, that the Clerk’s Office and the BOCC signed a Memo of Understanding for the Clerk’s Office to conduct performance audits for the Board. This agreement remains in effect until terminated by mutual consideration of the Clerk and the Board.

Now to the present: I am reminded of a quote by Oscar Wilde: “Experience is one thing you can’t get for nothing.” So often, you don’t really know how something will work until you see it in operation.

Sadly, I have been disappointed with the Office of the Internal Performance Auditor since its creation. It’s a concept that has frankly not worked out in its implementation. And to add to that, the recommendations before you by Mr. Tarr will only add to the dysfunction of the Internal Performance Auditor. They will also undermine the Clerk’s County Audit role, which has been working very well. It was formalized almost 20 years ago, to ensure that the Clerk’s Role is defined, and it is in practice not only here in Hillsborough County, but also in Clerk’s Offices throughout the state.

If the BOCC is not satisfied with the Independent Performance Auditor, why not correct that situation, rather than reconfigure the position and upset the operation of the Clerk's Office? Mr. Tarr himself, who made these recommendations, rated Mr. Barnes' performance for an external quality assurance review – a peer review - at the direction of the BOCC, on an Institute of Internal Auditors' three-level reporting standard, and gave him the lowest rating, which was - "does not conform to standards."

The recommendations of Mr. Tarr are custom-made for Mr. Barnes to continue to operate and eliminates the need for him to have the qualifications he should have to perform his duties.

Let me point out to you that the Office of the Internal Performance Auditor's cumulative expenditures from Fiscal

Year 2006 through Fiscal Year 2009 are over \$1.725 million. To date, not a single “yellow book’ or “red book” performance audit report has been completed. During that same four-year period, the Clerk’s County Audit has conducted 51 audits, reviews, follow-up reports and special investigations with “red book” standards.

I strongly urge you **not** to accept these proposed changes. Instead, I urge you to repeal the position of Internal Performance Auditor and transfer performance audits to the Clerk’s Office for internal or external auditing. In fact, an agreement presently exists with the Board to conduct performance audits. We stand ready to serve. Thank you.

Section 4.10. County Board Internal Performance Auditor.

1. ~~To advise the board of county commissioners, assist the board of county commissioners in conducting continuing studies of the operation of county programs and services, and serve as a budget analyst for the board of county commissioners, there shall be a county internal performance auditor. The Board Internal Auditor shall conduct independent appraisals of county operations, services, and programs, as a service to the Board of County Commissioners (BOCC) and other Appointed Officials. The objective of the audit work carried out by the Board internal Auditor is to assist the BOCC and other Appointed Officials in the accomplishment of County goals and objectives and the effective discharge of their responsibilities. As approved by resolution of the BOCC, the appraisals conducted by the Board Internal Auditor will focus on adding value and improving the economy, efficiency, effectiveness of Hillsborough County risk management, control, and governance processes.~~
2. The county board internal performance auditor shall be appointed by five (5) affirmative votes of the board of county commissioners. The board of county commissioners, at any time, may remove the county board internal performance auditor with five (5) affirmative votes. The county board internal performance auditor shall be responsible directly to the board of county commissioners. The county board internal performance auditor need not be a resident of Hillsborough County at the time of appointment, but shall become a resident of Hillsborough County within a reasonable period of time and remain a resident of Hillsborough County while in office.
3. The county board internal performance auditor shall be a certified public accountant holding an active license to practice public accountancy in the State of Florida, or shall be qualified by education and experience in internal auditing, governmental accounting, internal performance auditing practice, and fiscal controls. The county board internal performance auditor shall not engage in any other business or occupation. The compensation of the county board internal performance auditor shall be fixed by the board of county commissioners by resolution at a level which is commensurate with the requirements of the position. The county board internal performance auditor's compensation, including severance pay, may be set by contract if allowed by and pursuant to resolution.
4. As directed by resolution of the board of county commissioners, the county board internal performance auditor shall conduct performance audits and budget reviews of all aspects of this Charter government and its offices and officials with written reports submitted to both the board of county commissioners and the county administrator. To the degree necessary to fulfill the responsibilities directed by the board, the auditor shall have free and unrestricted access to Charter government employees, officials, records and reports and, where appropriate, may require all divisions, offices, and officials of the Charter government to provide oral and written reports and to produce documents, files, and other records.

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5. The county-board internal performance auditor shall hire, on either a full-time or part-time basis, and may remove assistants. The number and qualifications of assistants shall be provided by resolution of the board of county commissioners. The county-board internal performance-auditor may also be authorized by the board of county commissioners to hire outside expertise as may be deemed necessary. The county-board internal performance-auditor's budget shall be set by resolution of the board of county commissioners.
6. The office of county-board internal performance-auditor shall be deemed vacant if the incumbent: takes up residence outside of Hillsborough County; dies; resigns; or is removed by five (5) affirmative votes of the board of county commissioners. A vacancy in the office of the county-board internal performance-auditor shall be filled in the same manner as the original appointment.

Goldstein, Linda

From: Pohto, Dan
Sent: Wednesday, April 28, 2010 2:32 PM
To: Goldstein, Linda
Subject: info

The three external Quality Assurance Review measures for "passing" or "not passing" the QAR are

The best is "Generally Conforms" to standards

The second best is "Partially Conforms" standards

The worst is "Does Not Conform" to standards.

The IPA's review was "Does Not Conform" to standards.

Daniel A. Pohto CPA, CIA
Director, County Audit
P.O. Box 1110
Tampa, FL 33601
813.307.7000

Standards used are from the US GAO (Yellow book) and the Institute of Internal Auditors (Red book). The excerpt below is from the recent external Quality Assurance Review of the IPA. Beginning in 1998, and every three years since (through 2007), the Clerk's County Audit department has been The Best (Generally Conforms).

The compliance rating system that was used for expressing the opinions in his review has three levels of conformance: generally conforms, partially conforms, and does not conform. "Generally Conforms" (the best) means that an audit activity has policies, procedures, and a charter that were judged to be in accordance with professional standards, however, opportunities for improvement may exist. "Partially Conforms" means deficiencies in practice were found that deviated from professional standards, however, these deficiencies were considered not significant enough to seriously impair the activity from carrying out its responsibilities in compliance with professional standards. "Does Not Conform," means deficiencies in practice were found that were considered significant enough to seriously impair the activity from carrying out its responsibilities in compliance with professional standards.

Based on the work outlined above, it is the opinion of this independent reviewer that the Internal Performance Auditor activity under the Hillsborough County BOCC **does not conform** to professional standards.

**HILLSBOROUGH COUNTY
CLERK OF THE CIRCUIT COURT
STATEMENT OF PURPOSE, AUTHORITY AND RESPONSIBILITY
FOR
COUNTY AUDIT DEPARTMENT**

INTRODUCTION

By authority of the Constitution of the State of Florida, Article VIII, Section 1.(d) the Clerk of the Circuit Court (Clerk) serves as County Auditor.

Recognizing the importance of government compliance with laws, policies, established procedures and accountability for the use of public funds while exercising its power and performing its duties, the Clerk has established and maintains a county audit function.

The mission of the County Audit Department is to serve the citizens and taxpayers of the County through the performance of independent, objective reviews and evaluations of all relevant activities under the Board of County Commissioners (BOCC). In performing these duties, the County Audit Department is obliged to assist management in achieving efficient and effective administration of their areas of responsibility. These efforts should improve county operations and help to ensure that Hillsborough County is fulfilling its fiduciary responsibilities to the citizens and taxpayers of the County.

STRUCTURE

Since the Clerk is elected, and thus responsible to the citizens and taxpayers of Hillsborough County, the Clerk is independent of those activities under the BOCC.

The County Audit Department is responsible for auditing and reviewing those functions, activities and programs under the direction of the BOCC. The Director of County Audit reports directly to the Clerk. The County Audit Department has no direct responsibility to, or authority over, any area subject to its audit and review. Therefore, the Department is organizationally independent from those areas which it will be auditing and reviewing. The Director of County Audit has the authority and responsibility to conduct audits and reviews of all agencies funded by the BOCC and departments under the County Administrator and to issue reports thereon. The Attorney General, in opinion NO. 86-38, stated that "Until legislatively or judicially determined otherwise, the clerk of circuit court as ex officio county auditor is not authorized to perform post-audit functions on the records of other constitutional officers."

To facilitate accuracy and completeness of audits and reviews, it is necessary that the County Audit Department have access to all relevant resources. Accordingly, the Department shall have access

to all records including, but not limited to, books, records, files, papers, documents and information stored on computer relating to any department, function, activity or program of the BOCC. Documents and information provided to County Audit Department employees will be handled in the same prudent manner as by those employees normally accountable for the material.

The County Audit Department may employ consultants, staff assistants, or use the services of public accounting firms as may be necessary for the conduct of auditing responsibilities. Where appropriate and with BOCC approval, the cost of outside services may be billed to the auditee. This document shall not prohibit the County Administrator from obtaining independent outside consultants as considered necessary.

The County Audit Department has the responsibility to conduct all audits in accordance with professional standards, to include, but not be limited to, the "Standards for the Professional Practice of Internal Auditing", as published by the Institute of Internal Auditors.

The Clerk will be responsible for ensuring that personnel assigned to perform internal audits will be proficient in applying internal auditing standards and adhere to the Code of Ethics of the Institute of Internal Auditors. A quality assurance program as recommended by the Institute of Internal Auditors shall be established and followed.

PLANNING

After consultation with the BOCC and the County Administrator, the Director of County Audit will be responsible for preparing an audit workplan for each fiscal year. This plan should include the departments, agencies, programs and functions to be audited. The plan should be developed by evaluating each department, agency, program and function based on criteria suggested in the "Standards for the Professional Practice of Internal Auditing" as well as by input from the BOCC and the County Administrator. The plan will be approved by the Clerk and presented to the BOCC and the County Administrator for their approval; however, nothing contained herein shall limit the Clerk from performing his statutory responsibilities in safeguarding county assets.

SCOPE OF WORK

The Department will examine and evaluate the adequacy and effectiveness of an organization's systems of internal control and the procedures used to carry out assigned responsibilities. This process includes:

- Reviewing the reliability and integrity of financial and operating information and the means used to identify, measure, classify and report such information.
- Reviewing the systems established to ensure compliance with

laws, regulations, policies and procedures, to determine whether the organization is in compliance.

- Reviewing the means of safeguarding assets and, as appropriate, verifying the existence of those assets.
- Reviewing operations or programs to ascertain whether results are consistent with established goals and objectives, and whether the operations or programs are being carried out as planned.
- Reviewing administrative and executive control systems established by the BOCC and other appropriate county officials to determine that such control systems are adequate and effective in accomplishing intended objectives.
- Auditing the County's outside revenue sources (including records of private organizations) to ensure that the County is receiving the proper amount of revenue.
- Reviewing and evaluating expenditures of County funds provided to other organizations (including private organizations) as appropriate.
- Investigating instances of suspected employee theft or loss, embezzlement, and fraud and assisting law enforcement authorities as appropriate. The County Audit Department should be notified of all such incidents.
- Conducting follow-up reviews on management letters of external certified public accounting firms in audits of the County or portions thereof.
- Conducting follow-up reviews of internal audit reports to determine whether recommendations have been implemented.
- Conducting audits and reviews not included in the annual audit plan as requested by the BOCC, County Administrator and other officials, as resources and priorities allow.
- Reviewing pertinent contracts, resolutions and ordinances to ensure adequate financial controls are provided.

PERFORMANCE AUDIT

Upon the request of the BOCC and the County Administrator and upon determination of appropriate available resources by the Clerk, the County Audit Department will conduct performance audits to review the economy and efficiency with which resources are employed to attain established goals and objectives. Where performance of the auditee's mission and objectives is involved, the County Administrator must be satisfied that the performance measures used for auditing are appropriate and that those conducting the audits are qualified to ascertain performance. Where the Clerk has been

involved or has offered comments on the development or implementation of procedures or activities, outside consultants or audit firms may be used to audit those activities or procedures.

REPORTING ACCOUNTABILITIES

A written report will be prepared by the County Audit Department and issued by the Clerk or the Director of County Audit following the conclusion of each audit and will be distributed as appropriate to the County Administrator or head of the auditee organization and to each County Commissioner. These reports will contain, as applicable, the response of the auditee to each audit recommendation.

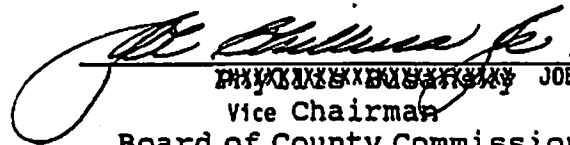
In providing responses to the recommendations, twenty working days will be allowed from the exit conference in which the report will be presented and discussed. Extensions may be granted when deemed appropriate. Responses will be included in the report as written. The County Audit Department reserves the right, if necessary, to comment on any response. If responses are not received within the prescribed time period and no alternative arrangements are made, the report will be issued without responses.

APPROVED:



Frederick B. Karl
County Administrator

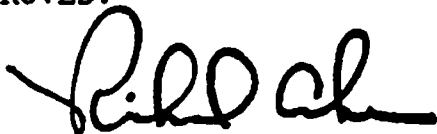
ACCEPTED:



~~XXXXXXXXXXXXXXXXXXXX~~ JOE CHILLURA, JR.
Vice Chairman

Board of County Commissioners

APPROVED:



Richard Ake
Clerk of the Circuit Court

ATTEST: RICHARD AKE
CLERK OF CIRCUIT COURT

By: 
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
HILLSBOROUGH COUNTY FLORIDA
DOCUMENT NO. 91-1740

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT is made and entered into 15th day of July 2009, by and between Pat Frank, Clerk of the Circuit Court Hillsborough County, Florida (herein "Clerk") and the Hillsborough County Board of County Commissioners (herein "Board").

WHEREAS, at the June 3, 2009, Regular Board meeting, the Clerk and the Board agreed to enter into an agreement for the Clerk's County Audit Department (CAD) to conduct performance audits as outlined herein with an estimate that there would be a reduction of three (3) current Clerk's CAD audit reports per fiscal year; and

WHEREAS, this Memorandum of Understanding (MOU) is authorized by the provisions of Section 163.01, Florida Statutes.

NOW THEREFORE, in consideration of the premises, the Clerk and the Board agree as follows:

1. All activities related to the Clerk's CAD conducting performance audits, as outlined within this MOU, shall be approved and fully funded by the Board, including items such as, but not limited to, the hiring and retaining of Subject Matter Experts, any expenses, change orders, or other unforeseen costs.
2. The Clerk's CAD, acting as Project Manager, would use the Board's Performance Audit Policy 02.11.00.00 (see attached policy) as a general guide (i.e., act as a Project Manager, obtain Board approvals, meet "Yellow Book," use Procurement Services) in conducting the performance audit process.
3. Listed below is an overview of the Clerk's proposed performance audit process:
 - a. Conduct audits in accordance with U.S. GAO ("Yellow Book").
 - b. Audits will be identified by a formalized assessment process and authorized by the Board. The Board will approve, in advance, each individual performance audit's scope of services.
 - c. The contracting of performance audits will be in accordance with the Department of Procurement Services' (DPS) Requests for Proposal (RFP) methodology.
 - d. The Board will approve the vendor recommended to perform each performance audit.

THE DURATION of this agreement shall be effective from the date of execution and remain in effect until terminated by mutual consideration of the Clerk and the Board.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto.

Clerk of the Circuit Court,
Hillsborough County

Chairman,
Hillsborough County Board

Pat Frank

Ken Hagan

Pat Frank, Clerk

Ken Hagan, Chairman

Attachment: (1)

BOARD OF COUNTY COMMISSIONERS Document No. 09-0757
HILLSBOROUGH COUNTY FLORIDA

Christine Lee

County Attorney Legal