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STATE OF RHODE ISLAND and PROVIDENCE PLANTATIONS
GENERAL ASSEMBLY
OFFICE of the AUDITOR GENERAL

- ♦ INTEGRITY
- ♦ RELIABILITY
- ♦ INDEPENDENCE
- ♦ ACCOUNTABILITY

October 21, 2002

Mr. Michael R. Clement
City of Providence
25 Dorrance Street
Providence, RI 02903

Dear Mr. Clement:

I am enclosing a copy of a letter that was mailed to the Chief Finance Officer and Chief Executive Officer of your municipality. I respectfully request that you provide a copy of this letter, including the attached Public Law chapter 414, to each member of the Council to apprise them of certain legal requirements and procedures that will affect your municipality in 2002 and beyond.

Sincerely,

Ernest A. Almonte, CPA, CFE
Auditor General

Enclosure

IN CITY COUNCIL
[NOV] 7 2002
READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

CLERK



STATE OF RHODE ISLAND and PROVIDENCE PLANTATIONS

GENERAL ASSEMBLY

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October 21, 2002

Alex Prignano, Finance Director
City of Providence
25 Dorrance St
Providence, RI 02903

Dear Mr. Prignano:

I am writing to remind you of the provisions of certain Rhode Island General Laws addressing the annual post audit required of all Rhode Island cities and towns, and to summarize amendments to these laws that were passed by the Rhode Island General Assembly in the 2002 legislative session. This includes provisions for the following:

- ☐ Filing of audit report (45-10-5)
- ☐ Failure to file audit report – enforcement and penalty (45-10-5.2)
- ☐ Annual post audit required (45-10-4)
- ☐ Corrective action plan (45-10-6.1)

The General Laws require timely submission of municipal audit reports so that information on fiscal accountability will be available to users of financial statements soon enough to be meaningful and useful. The audit report and the accompanying management letter are essential tools for local officials when developing the succeeding year's financial budget and negotiating contracts. Municipal audit reports are also utilized by various state agencies to extract information that is needed within a certain time frame. This includes information needed for state aid computations and various reports prepared by the Office of Municipal Affairs.

Some Rhode Island municipalities have experienced significant declines in their fiscal condition in recent years. These municipalities did not have current audited financial statements available that would have reported shortfalls sooner and prompted local officials to take immediate corrective action. Bond rating agencies, government officials, taxpayers, lending institutions, standard setters, and various oversight bodies have all expressed deep concern for the adverse effect that late audit reports have had on local governments in Rhode Island. As a result the General Assembly added provisions for enforcement and penalty, including monetary sanctions, to help achieve compliance with requirements to file timely audit reports.

A copy of the amended legislation is enclosed with this letter.

Filing of audit report (45-10-5)

Rhode Island General Law section 45-10-5 requires Rhode Island municipalities to file their annual audit reports with the Auditor General and the state Director of Administration no later than six months after the close of the fiscal year. This includes any findings and recommendations made as a result of the audit. For example, for municipalities with fiscal years that ended on June 30, 2002 the audit reports must be filed with this office by December 31, 2002. This law was amended in 2002 to provide that:

“The auditor general may in his/her discretion, grant extensions in the filing of the audit report only upon reasonable cause for such extensions being demonstrated by the municipality. In such cases, the determination of the auditor general as to the existence of reasonable cause shall be deemed conclusive.”

Although this provision was added to the General laws in 2002 this is not a new procedure. In August 2001 we advised all municipalities that the procedure for petitioning this office for an extension to the legal deadline for filing audit reports is as follows:

- I. At least 30 days prior to the legal deadline for submission of reports, the chief municipal finance officer must schedule a meeting with the Auditor General. The purpose of this meeting will be to advise the Auditor General that the municipality is unable to comply with the requirements of section 45-10-5 and is requesting an extension of time to file the audit report. This meeting will be held at the Auditor General's office. The municipal finance officer must be accompanied by the partner or manager-in-charge from the firm conducting the audit.
- II. The finance officer must file the following **written application** with the Auditor General at least 5 business days **prior to the meeting**:
 - A. A request to receive an extension of time, beyond the legal deadline, to submit the audit report.
 - B. A confirmation of the date the audit will be completed and submitted to our office (completion date).

Alex Prignano, Finance Director

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- C. A detailed description of the reasons why the audit will not be completed by the legal deadline. This should be prepared in conjunction with the auditor and include:
- (1) A list compiled by the auditor which describes:
 - (a) all information or documents he or she is still waiting for in order to complete the audit;
 - (b) the individual responsible to provide the information or document; and
 - (c) the date each item must be received in order to meet the above stated completion date.
 - (2) A statement from the municipal finance officer and any other municipal official responsible for providing a document included on the auditor's list (e.g. solicitor), indicating that they agree to the timetable set by the auditor in order to meet the above-stated completion date.
 - (3) A list of all other situations that are causing the delay and a timetable for when each one will be resolved or completed in order to meet the above-stated completion date.
- D. A corrective action plan and timetable. This plan should describe how and when the situations causing the delay will be corrected prior to the start of the audit for the following year.
- E. The chief executive officer of the municipality must sign the entire application.

If a municipality is unable to meet the filing deadline provided in 45-10-5 you must have an approved extension from the Auditor General prior to that date by following the procedures outlined above. The approval of an extension request is not automatic and will be based on the nature of and reason for the request, the documentation submitted to support it, the plan presented to our office to correct the factors causing non-compliance, and other information available to our office. Therefore, although we require all meetings to discuss extension requests to be scheduled with our office no later than December 1 (for fiscal years ending June 30), please contact us prior to that date if you believe that the municipality will not meet the legal deadline so that we may start evaluating your request and ask for any additional information, if needed.

We understand that unforeseeable problems are occasionally encountered which could delay compliance with this law. However, obtaining timely financial accounting data is essential to effective government. Therefore, we are reminding you of the legal requirements to allow you sufficient time to meet the required filing date for an extension request, if necessary.

Failure to file audit report – enforcement and penalty (45-10-5.2)

Many communities have worked to achieve compliance with the filing requirements for their annual audits. However, due to the serious negative consequences realized by communities that have repeatedly failed to comply with the requirement for timely completion of audit reports, the General Assembly has added provisions for enforcement and penalty, including monetary sanctions, to help achieve compliance.

Specifically, failure to file the audit when due shall result in a sanction being imposed equal to ten thousand dollars (\$10,000) per month or a monthly sanction equal to (1/12) of the product of one percent (1%) of the general revenue sharing funds received by the municipality from the state in the prior fiscal year, whichever is greater. This penalty shall be calculated from the due date of the audit or any approved extension date until the date the report is filed as required. The funds collected from penalties will be used for the purpose of training government finance personnel.

The law further provides that:

“In addition to the penalty for late filing, if the municipality fails to comply with the provisions of this section by filing the audit report as required hereunder, the auditor general, in his/her discretion, is authorized to provide for the completion of said audit”.

“The municipality shall bear the cost of the audit to be completed by the auditor general or an independent audit firm engaged by the auditor general to complete the audit. The payment of this cost shall be deducted from state aid funds otherwise due to the municipality.”

Please review and discuss with your auditors the requirements of 45-10-5.2, if you have not already done so, since this provision is effective for audits performed for fiscal years that ended in 2002.

Annual post audit required (45-10-4)

This law, which requires that audits of municipalities be performed each year by an independent CPA in accordance with generally accepted auditing standards has been revised as follows:

- All municipalities must also have annual post audits performed in accordance with *Government Auditing Standards*. Most municipalities are already required to have an audit performed in accordance with government auditing standards since this is required of all municipalities that issue a Single Audit report. However, when the threshold for requiring single audits was raised by amendments to the Single Audit Act a few municipalities were no longer required to have a single audit performed. This could change from year to year depending on the amount of federal awards received. For those municipalities, this law requires that the auditor perform the audit in accordance with *Government Auditing Standards* even if a single audit is not performed. If you are no longer required to have a single audit performed of your municipality, please discuss the provisions of this law with your auditor to ensure that he/she is following the required audit standards.
- The selection of auditors hereunder shall be subject to final approval of the State Auditor General. The municipality shall not engage said auditors or enter into a contract for such services until the Auditor General gives written authorization. This provision is effective immediately for all future audit engagements where the contract has not already been awarded. Please contact our office at the number provided below for procedures to be followed in order to comply with this provision.

Corrective action plan (45-10-6.1)

This section requires the chief finance officer of each municipality to submit a detailed corrective action plan and timetable to the Auditor General and State Director of Administration as well as the city or town council within 45 days of receipt of an audit report and/or management letter:

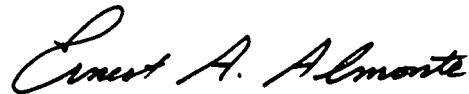
- if the auditor conducting the post audit expresses an opinion on the financial statements of a municipality that is other than unqualified;
- for all findings and recommendations reported by the auditors making the post audit, including those reported in a separate letter.

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This provision is intended to help ensure that municipalities implement timely corrective action measures to resolve weaknesses in financial controls, reported instances of noncompliance with laws and regulations, and reported non compliance with required accounting principles.

Please study the enclosed copy of Public Law Chapter 414 that was enacted on June 28, 2002 and advise your auditors of its requirements, if you have not already done so. If you have questions, please call Linda Ide or Andrea Butola from my office at 222-2435 and we will be happy to assist you.

Sincerely,

A handwritten signature in cursive script that reads "Ernest A. Almonte".

Ernest A. Almonte, CPA, CFE
Auditor General

Enclosure

cc. John J. Lombardi, Acting Mayor
Honorable Members of the City Council
Robert L. Carl, Jr. Ph.D.
Jeffrey A. Gofton

CHAPTER 414
2002-S2488A
Enacted 06/28/2002

A N A C T

RELATING TO TOWNS AND CITIES -- AUDITS

Introduced By: Senators J Montalbano, and McCaffrey

Date Introduced: February 05, 2002

It is enacted by the General Assembly as follows:

SECTION 1. Sections 45-10-4 and 45-10-5 of the General Laws in Chapter 45-10 entitled "Audit of Accounts and Installation of Systems" are hereby amended to read as follows:

45-10-4. Annual post audit required. -- Prior to the close of the fiscal year of each city and town in the state, the city or town shall retain the services of one or more independent certified public accountants holding a certificate from the state of Rhode Island, or from any other state with whom the state board of accountancy has a reciprocal relationship, to make a detailed post audit of the financial records of the city and town for the preceding fiscal year in accordance with generally accepted auditing standards and government auditing standards. The selection of auditors hereunder shall be subject to the final approval of the state auditor general. The municipality shall not engage said auditors or enter into a contract for such services until the auditor general gives his/her written authorization.

45-10-5. Filing of audit report. -- The accountants making the post audit required by section 45-10-4 shall submit a report on their examination of the financial statements to the city or town audited, and the town or city clerk of the city or town shall file duplicate copies of the post audit with the state director of administration and the state auditor general not later than six (6) months after the close of the fiscal year. The copy of the report filed with the director of administration shall be a public record. The auditor general may, in his/her discretion, grant extensions in the filing of the audit report only upon reasonable cause for such extension being demonstrated by the municipality. In such cases, the determination of the auditor general as to the existence of reasonable cause shall be deemed conclusive.

SECTION 2. Chapter 45-10 of the General Laws entitled "Audit of Accounts and Installation of Systems" is hereby amended by adding thereto the following sections:

45-10-5.3. Failure to file audit report -- Enforcement and penalty. -- (a) Failure to file the duplicate audit report as prescribed in section 45-10-4 shall result in a sanction being imposed equal to ten thousand dollars (\$10,000) per month or a monthly sanction equal to one-twelfth (1/12) of the product of one percent (1%) of the general revenue sharing funds received by the municipality from the state in the prior fiscal year, whichever is greater. This penalty shall be calculated from the due date of the audit or any approved extension date until the date the report is filed as required. The penalty funds shall be paid by the municipality to the general treasurer who shall deposit said funds into a restricted receipts account. If the municipality fails to promptly pay said penalty, the general

treasurer is authorized to withhold said amounts from state aid otherwise due to the municipality upon certification by the auditor general of the amount of the penalty. Both the auditor general and the general treasurer shall have standing to bring an action in the Providence county superior court to enforce payment of the penalty provided for under this section.

(b) In addition to the penalty for late filing, if the municipality fails to comply with the provisions of this section by filing the audit report as required hereunder, the auditor general, in his/her discretion, is authorized to provide for the completion of said audit. In such event, the auditors and/or the municipality shall transmit the audit workpapers to the auditor general within ten (10) days of his/her request. The workpapers shall include, but not be limited to, the work product customarily generated in the course of an audit under generally accepted auditing standards and practices, as well as any papers, schedules, or documents created or provided by or to the auditors in the conduct of audit field work. The municipality shall bear the cost of the audit to be completed by the auditor general or an independent audit firm engaged by the auditor general to complete the audit. The payment of this cost shall be deducted from state aid funds otherwise due to the municipality.

(c) If the auditor and/or the municipality refuses to transmit said workpapers as provided herein, the auditor general shall have standing to petition the presiding justice of the Rhode Island superior court for an order compelling the immediate transmission of the workpapers to the auditor general. Upon the filing of said petition, the court shall schedule a hearing on an expedited basis, no more than ten (10) days after the filing of the petition. The court shall order the transmission of the workpapers and the draft of the audit report -- if any -- to the auditor general upon the auditor general's certification to the court that:

(1) the audit report was not completed and filed as required under the law;

(2) requests for extension to file were denied by the auditor general; and

(3) the auditors and/or the municipality have failed or refused to transmit the workpapers and/or preliminary draft of the report.

(d) Failure to transmit the workpapers and/or draft audit report after the issuance of a court order will constitute criminal contempt of court, and will empower the court to impose any and all criminal sanctions including imprisonment and/or monetary penalties consistent with the existing power and authority of the superior court to impose such sanctions under law. Any monetary penalty imposed shall be paid into the restricted receipts account established hereunder for the payment of late penalties.

(e) The state controller shall establish the restricted receipts account for the deposit of penalties and costs under this section, and the disbursement of funds from this account shall be for the purpose of training government finance personnel, and to reimburse and/or pay audit costs and the cost of monitoring and enforcing compliance with this chapter. Disbursements from said account shall require the authorization of the auditor general.

45-10-6.1. Corrective action plan. -- If the auditor conducting the post audit expresses an opinion on the financial statements of a municipality that is other than unqualified, the chief finance officer of the municipality shall submit a detailed corrective action plan and timetable, which addresses the issue(s) which caused the auditor's qualified opinion on the municipality's financial statements. Such plan and timetable shall be submitted to the city or town council, state auditor general and director of

administration within forty-five (45) days of receipt of the final audited financial report. The chief finance officer of each municipality shall also submit all findings and recommendations reported by the auditors making the post audit, including those reported in a separate letter, to the state auditor general and director of administration. The chief finance officer of the municipality shall prepare a plan of corrective action and timetable for all findings and recommendations and shall submit such plan to the city or town council, state auditor general and director of administration within forty-five (45) days of receipt of a written report or letter of findings and recommendations from the auditors.

SECTION 3. This act shall take effect upon passage.

As always, your comments concerning this page are welcomed and appreciated.

Thank you for stopping by!

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