

CHAPTER 12-25 CONTRACT AUDITING

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PART I CONTRACT AUDITING

12-25.001 Scope of Rules.

This chapter implements Section 213.28, F.S., with respect to the Department's authority to enter into contracts with certified public accountants to perform specific tax audit services. Also, this chapter sets forth the procedures to be used by the Department in the administration of Section 212.10, F.S., concerning the Department's authority to contract with certified public accountants to conduct transferee liability audits. Finally, these rules govern the process by which the Department is authorized to enter into contracts with private brokers to secure the services of certified public accountants as provided in Section 213.28, F.S.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94.

12-25.002 Definitions.

For the purposes of this rule chapter, the terms and phrases used in these rules shall have the meanings prescribed in this section, unless a different meaning is clearly indicated by the context in which the term or phrase is used.

(1) “Applicant” means a certified public accountant or a certified public accounting firm who submits a complete and properly prepared written response to the Department’s Request for Information for contract audit services, in accordance with the requirements stated in the Request for Information.

(2) “Applicants Ranking Committee” means a group of seven Department employees appointed by the Executive Director of the Department or the Executive Director’s designee.

(3) “Audit Services” means the performance, pursuant to a contractual agreement with the Department, of a tax compliance audit by a contract auditor, or any special audit project designated by the Department.

(4) “Certified Public Accountant” or “C.P.A.” means a person operating as a sole proprietorship or firm who holds a license to practice public accounting in any state in the United States, and who is in public practice as a practice unit.

(5) “Contract Auditor” means a certified public accountant with whom the Department has executed a contractual agreement to provide auditing services.

(6) “Department” means the Florida Department of Revenue.

(7) “Florida Revenue Law” means any tax statute administered by the Department, including those enumerated in Section 213.05, F.S.

(8) “Private Broker” means a private business entity offering contract auditor recruitment services.

(9) “Professional Staff Member” means each person employed by a contracted certified public accounting firm who works, as defined in the contract, on a contract tax compliance audit.

(10) “Request for Information” means a formal, written solicitation of a certified public accountant’s qualifications and specific fee proposal to perform auditing services for the Department.

(11) “Request for Proposal” means the competitive bid procedure defined in Section 287.012, F.S.

(12) “Single, Blended Rate” means the per hour rate developed by the applicant and submitted as the fee proposal required by Section 213.28, F.S.

(13) “Tax Compliance Audit” means an examination of the accounts, books, and records of a person subject to a revenue law for the purpose of ascertaining compliance with such laws and determining the correctness of any returns which have been filed or payments which have been made, or for the purpose of making a return when none has been made.

(14) “Taxpayer” means any person subject to a Florida revenue law. For the purpose of these rules, “person” includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit and also includes any political subdivision, municipality, state agency, bureau, or department and includes the plural as well as the singular number.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94.

12-25.003 Application of Rules.

(1) Under the provisions of Section 213.28, F.S., the Department is granted the authority to contract with certified public accountants to conduct a tax compliance audit of any person who is subject to a Florida revenue law. Additionally, the Department has the discretionary authority to contract with a private broker to facilitate the recruitment of certified public accountants licensed to practice outside of Florida who can perform tax compliance audits of taxpayers located outside this state who are subject to Florida’s revenue laws.

(2)(a) Contracts for audit services will generally involve the performance of the following audit services:

1. Contract tax compliance audits, including transferee liability audits, of taxpayers located in and out of Florida; and,
2. Special audit projects.

(b) Contract auditors shall not be used to supplant existing departmental audit staff.

(3) All contracts executed pursuant to Section 213.28, F.S., shall be interpreted under Florida law. Any action for resolution of any dispute related to such contracts shall be brought under the laws of this state, after the applicant has exhausted the remedies offered by the dispute resolution process established in Rule 12-25.0058, F.A.C.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94.

12-25.004 Contract Auditor Prerequisites.

An applicant and the applicant’s firm, prior to being considered for a contract or renewal of a contract to provide auditing services pursuant to Section 213.28, F.S., shall comply with the following qualifying criteria:

- (1) Must be a certified public accountant in good standing under the laws of the state in which the applicant is licensed;
- (2) Must be willing to certify that they have not performed accounting, auditing, management consulting, or tax services for any taxpayer or person that is a subsidiary, parent, sister, or other affiliate of the taxpayer on which they are requested to perform a tax compliance audit or special audit project pursuant to a contract with the Department during the 60-month period immediately preceding the signing of a contract to perform tax compliance audits or special audit projects;
- (3) Certify that they will not perform accounting, auditing, management consulting, or tax services for any taxpayer or person that is a subsidiary, parent, sister, or other affiliate of the taxpayer on which a tax compliance audit or special audit project has been conducted pursuant to a contract with the Department, for a period of thirty-six consecutive calendar months from the date the Department's assessment of tax due, denial of refund, issuance of a refund, or a "no change" becomes final or the special audit project is completed to the express written approval of the Department;
- (4)(a) Shall not have provided private broker services to the Department, as defined in this rule; and,
(b) Shall not utilize or benefit from the provisions of Section 213.27, F.S. (Contracts with Debt Collection Agencies) or Section 213.30, F.S., (Compensation for Information Relating to a Violation of the Tax Laws) while under contract to the Department or with regard to any information obtained during the performance of a contractual obligation with the Department.
- (5) Comply with contractual requirements regarding the confidentiality of tax information, which acknowledges the applicant's legal responsibility to not disclose any taxpayer or departmental records.
- (6) Timely provide the information, as specified by the Request for Information (when applicable), required by the Department for use in the applicant ranking procedure. "Timely provide" means the information must either be hand delivered to the Contract Manager's Office or postmarked by the U.S. Postal Service by the deadline established in the Request for Information. Facsimile information will not be accepted.
- (7) Shall not have any currently unpaid Florida state tax liability, and, to the best of the applicant's knowledge, be in compliance with Florida revenue laws. This provision applies to any business entity owned or controlled by, or related to, the applicant, including a parent, subsidiary, brother or sister company, or other affiliated entity.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 213.28, 213.53(2) FS. History—New 5-11-92, Amended 3-20-94, 10-30-96, 7-31-00.

12-25.005 Selection Procedures for Contract Auditors.

(1) Contract auditing services are exempted from the competitive bid selection procedures of Chapter 287, F.S. The selection processes described in this rule shall be utilized by the Department.

(2)(a)1. The Department will publish a new Request for Information and use the resulting responses to establish a ranked list of qualified applicants, when the Department identifies the need to revise or replace the group of firms under contract. Reasons to revise or replace will include, but not be limited to, the Department identifying a potential economic benefit to the state to be derived from publishing another Request for Information, the current firms not possessing or not possessing in sufficient quantity a specific professional expertise, the sum of the current firms and firms that had a contract in the immediately preceding program year that meet the renewal criteria being less than the total number of contracts the Department elects to let for a fiscal year, or there being a substantial change in the enabling statute (Section 213.28, F.S.).

2. This list represents the qualified applicants with which the Department will negotiate, in the order of their ranking, to select contract auditors. If the number of applicants exceeds 75, the Department will use statistical sampling techniques to determine which applicants will be ranked.

3. When the Department identifies the need to revise or replace the group of firms under contract, and the number of applicants exceeds 75, then the following statistical sampling techniques will be utilized to select applications to be ranked in that particular pool:

a. The population will be defined as the applications filed in a complete, timely manner (as determined by the Request for Information), for the subject contract size pool, exclusive of any applicant that has satisfactorily completed a contract at the time it submits an application and who meets all the criteria established in subsection (2) of this rule at the cut-off date established by the Contract Manager.

b. A random number generator software package will be used to select which applicants from the population will be ranked.

c. The size of this statistical sample will be of sufficient size to ensure that there are at least 2 firms competing for each available contract. The critical factor in determining the sample size will be the time available for the Applicants Ranking Committee to

perform its function.

d. Any applicant that has completed a contract at the time it submits an application and who meets all the criteria established in subsection (2) of this rule at the cut-off date established by the Contract Manager will automatically be included in the ranking process.

(b) Until the Department identifies the need to revise or replace the group of firms under contract, the Contract Manager will develop a ranked list from those firms that have had contracts within the two immediate preceding program years for General Tax Administration (GTA) management approval. The approved ranked list will then be used by the Contract Manager to negotiate contracts, using the same procedures set forth in this rule section. The following method will be used to develop this ranked list, and the list discussed in paragraph (2)(a) of this rule:

1. Step A: The Contract Manager will establish a cut-off date prior to developing the ranked list. The Evaluation rating(s) and the Efficiency rating(s) for any individual audit submitted to the Department subsequent to the established cut-off date will not be considered in the current ranking process. The Contract Manager will eliminate from the list of firms any firms that, at the cut-off date:

- a. No longer meet the prerequisites stated in Rule 12-25.004, F.A.C.; or,
- b. Fail to comply with the requirements of Rule 12-25.0056, F.A.C.; or,
- c. Have not submitted for review and approval at least 40 percent of their assigned audit hours. "Submitted" is defined as the completed audit file(s) delivered to the Department for final review on or before the cut-off date. If the applicant elects to use an overnight mail service to deliver its completed files, the delivery date is the date the service actually provides the files to the Department, not the date the completed files are provided to the overnight mail service, and not the date the overnight mail service is paid by the applicant. The U.S. Postal Service postmark date on the mailing envelope, which constitutes the mailing date, containing such completed file(s) will be used to determine if the file(s) were submitted on or before the cut-off date. The 40 percent will be calculated by dividing the sum of the budgets for the submitted audits by the sum of the total assigned hours for the subject program year. For the purposes of these rules, the term "completed" is defined as the case file being ready for final Department review – the Notice of Intent to Make Audit Changes has been issued, the taxpayer response received, necessary adjustments have been made to the file, and all required work papers have been prepared.

2. Step B: The Contract Manager will calculate at the cut-off date the overall evaluation rating provided in Rule 12-25.0056, F.A.C., for each firm remaining after Step A is completed. The Contract Manager will eliminate from the list firms that do not have an overall weighted evaluation rating, as provided in Rule 12-25.0056, F.A.C., of at least 1.50.

3. Step C: The Contract Manager will calculate at the cut-off date the overall Efficiency rating provided in Rule 12-25.0056, F.A.C., for each firm remaining after Step A is completed. The Efficiency rating will be taken to four decimal places.

4. Step D: The Contract Manager will use the ratings developed in Steps B and C, and the Fee Proposals to develop a ranked list of qualified applicants. A firm's points resulting from its overall Evaluation rating will be weighted 33 percent, the points resulting from its overall Efficiency rating will be weighted at 17 percent, and the points resulting from its Fee Proposal will be weighted at 50 percent.

(3) When the Department identifies the need to revise or replace the group of firms under contract, the Department will publish a Request for Information (R.F.I.) in the Florida Administrative Register announcing that it is seeking contract auditors to provide tax audit services. This Request for Information will be published at least thirty days before the Department establishes the ranked list of qualified contract auditors.

(4) The R.F.I. will contain instructions and information which applicants must submit in a complete, timely application to be considered for a contract for the fiscal year.

(5)(a) Applicants must submit their written application in response to the Department's Request for Information to the address specified in the subject Request for Information.

(b) To be timely, an application in response to the Request for Information must be postmarked by the U.S. Postal Service or hand-delivered within 30 calendar days of the issue date of the Florida Administrative Register in which the Request for Information is published. If the applicant elects to use an overnight mail service to deliver the application, the delivery date is the date the service actually provides the application to the Department, not the date the application is provided to the overnight mail service, and not the date the overnight mail service is paid by the applicant.

(6) The Department's Request for Information will solicit information which reflects, at a minimum, the qualifications of the team identified by the applicant in its application to perform tax audit services for the Department, as follows:

- (a) Experience in Florida tax law, as specified in the published Request for Information;
- (b) Knowledge of Florida tax law, as specified in the published Request for Information;
- (c) Experience in federal tax law;
- (d) Submission of the applicant's most recent on-site quality review report or peer report, Letter of Comments, if any, and Letter of Response, if any;
- (e) Any masters or doctoral degrees in taxation possessed by members of the team identified by the applicant in its application;
- (f) Whether the applicant is a certified minority business enterprise pursuant to Section 287.0943, F.S.;
- (g) Other specific skills, including computer capabilities;
- (h) States in which the applicant is licensed and the applicant's license number in each state;
- (i) The geographic location of the applicant's main office, as well as any branch offices;
- (j) The names of the professional staff and the engagement partner (i.e., the team) who will work on the audits. Except as discussed next, all team members listed in the response to the Request for Information must work on the contract. Once a contract is awarded, the Department will approve firm member substitutions if:

1. The original firm member cannot work on the contract due to either health reasons or because the member is no longer employed by the firm; and,

2. The substituted firm member has approximately the same number of months of professional experience, the same general educational background, and the same general position level within the firm;

(k) The results of any Board of Accountancy disciplinary actions within the last 3 calendar years; and,

(l) Any complaints filed within the last 3 calendar years with the Division of Consumer Services (Florida Department of Agriculture and Consumer Services) or a local better business bureau, or any similar agency in the applicant firm's state of domicile. The applicant may be asked by the Department to provide supplemental details for the information submitted pursuant to the above criteria. For example, if the applicant states a qualification of experience in Florida tax law, supplemental information may be requested concerning the nature of this experience and how this experience was obtained.

(7) After reviewing those written responses to the Department's Request for Information that are selected for ranking, the Applicants Ranking Committee will rank the applicants in order based on requested technical criteria and their fee proposal, for negotiation purposes.

(8) The Contract Audit Section will then enter into contract negotiations with the highest ranked applicants in the order of their ranking. The negotiation process will continue until all the available contracts for the subject period are let.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 213.28 FS. History—New 5-11-92, Amended 3-20-94, 10-30-96, 7-31-00.

12-25.0052 Procedures for Establishing Contract Size.

Rulemaking Authority 213.06(1) FS. Law Implemented 212.10, 213.28 FS. History—New 3-20-94, Repealed 10-30-96.

12-25.0054 Applicants Ranking Committee.

(1) Composition of the Committee.

(a) The Program Director of the General Tax Administration Program (GTA) will appoint a seven-member committee, known as the "Applicants Ranking Committee", to perform the ranking function.

(b)1. This Committee will include the Contract Manager, who will serve as chairperson, and six voting members.

2. The chairperson is authorized to recommend candidates for Committee membership to the Program Director of GTA, schedule meetings, prepare agendas and necessary materials, and chair the meetings.

3. The chairperson will not prepare any qualification ranking forms, and will not "vote" on ranking issues.

(c) Committee members will serve a term not to exceed 5 consecutive years.

(d) The Program Director of GTA will use the following criteria in making appointments to the Committee:

1. Two members will be from a program other than General Tax Administration (GTA);

2. At least four members will possess active C.P.A. certificates;

3. At least one member will be a lay person (non-C.P.A.);

4. At least one member will be a minority, as defined by Section 288.703(4), F.S.; and,

5. At least one member will be from a GTA regional service center office.

Any appointed Committee member can meet several of the guidelines listed. For example, an appointee may be a lay person from

another program.

(e) Each member, including the chairperson, must complete a conflict of interest disclosure statement. The member must either state the absence of any existing business or family relationship with applicants, or must list any such relationships. If relationships do exist for a particular Committee member, then the Program Director of GTA will excuse the member from participating in ranking the particular firm(s) with which the member has a relationship. The statements will be completed at the beginning of each fiscal year, prior to the start of the ranking process.

(2) Committee Meetings.

(a) The Committee will meet to evaluate the relative qualifications of each applicant included in the ranking process. The meeting will be held within 60 business days after the application deadline. Additional meetings will be held if necessary during the fiscal year.

(b) The Contract Manager will publicly notice the date, time, and location of any meeting held by the Applicants Ranking Committee. This notification will, at a minimum, be published in the Florida Administrative Register at least 14 calendar days prior to any scheduled meeting of the Committee.

(c) Public testimony or discussion will not be accepted at meetings of the Committee. Only information previously submitted by applicants will be considered.

(d) Persons who may wish to appeal any decision made by the Committee at a public meeting should ensure that they create a verbatim record of the proceedings, which record includes the testimony and evidence upon which the appeal will be based.

(3) Committee Procedures.

(a)1. The chairperson must grant each Committee member an opportunity to review the applicants' qualification packages prior to the scheduled meeting.

2. The Committee members can ask for any clarification of the respective applicants' qualifications. The chairperson will obtain the requested clarification, and will provide the response to all Committee members.

3. Although the Department may request clarification of submitted information, it is the applicants' responsibility to submit correct and complete information. The Department reserves the right to rank applicants based strictly on the information originally submitted.

(b)1. At the meeting, the Committee will conduct an open discussion on each applicants' qualifications prior to completing their individual qualification ranking form.

2. After the open discussion, the members must independently complete their individual qualification ranking forms. The members must sign and date each ranking form.

3. When each member has completed, signed, and dated a qualification ranking form for each applicant, the forms will be given to the chairperson.

4. The chairperson or the chairperson's designee will review the completed forms to verify that the supporting facts entered in the comments sections are consistent between members, and are accurate. The chairperson or the chairperson's designee will resolve any discrepancies through discussion with the involved members and review of the facts documented in the subject application.

(c) The chairperson or the chairperson's designee will enter the scores from each form into a database to determine the total of the six scores of each of the applicants evaluated by the Committee. If a Committee member is excused from ranking a particular applicant due to a potential conflict of interest, then an average of the other five members' scores will be used as the sixth score. A Ranking Report for each pool will be prepared based on the composite scores of the applicants in the pool. The Ranking Reports will reflect, at a minimum:

1. Composite scores for each applicant in total; and,

2. A ranking of the applicants in numerical order.

(d) In the event of a tie(s) on a ranking report, the following steps will be performed, in numeric order, until the tie(s) is broken:

1. The individual numeric calculations comprising the total score for each applicant will be recalculated to ten decimal places;

2. Then, if the tie(s) is not broken, the applicants will be ranked against each other based on the scores for the criteria specified in subparagraphs (b)1., 6., 7., 9. and 10. of subsection 12-25.0056(12), F.A.C.;

3. Then, if the tie(s) is not broken, the applicants will be ranked against each other based on their scores for the criteria specified in subparagraph (b)9. of subsection 12-25.0056(12), F.A.C.

(4)(a) After approval by the Compliance Support Process Manager, the ranking reports will be used by the Contract Manager to contact the applicants in the order determined by the ranking.

(b) This ranking process only determines the order of negotiation. It does not guarantee that the applicant ranked first will receive a contract in the subject fiscal year.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 213.28 FS. History—New 3-20-94, Amended 10-30-96, 7-31-00.

12-25.0056 Applicant Ranking Process.

The criteria and definitions established in this rule will be used by the Applicants Ranking Committee to evaluate and rank the qualifications of applicants.

(1) Experience in Florida tax law. This term means working directly with the Florida Statutes (tax law), Department rules, and the interpretative decisions, opinions, and rulings relevant to the subject tax. The type of experience can either be:

(a) Audit – performing Department tax compliance audits; or,

(b) Preparation – assisting a taxpayer in, or preparing tax returns for, clients, or representing clients or others with respect to audit issues during the Department’s tax compliance audit process.

(c) Experience means the combined years of experience of the firm members named in the application who will work on the audits. “Working” means performing on-site tax compliance audit work, supervising audit work, reviewing audit work papers, or serving as the engagement partner. The following methodology will be used to score experience:

(d) Audit Experience	=	Score
1 to 4 years	=	2
5 to 8 years	=	3
9 or more years	=	5

Points awarded for experience are based on the sum of the experience of individual team members. For team members who have previously worked on Section 213.28, F.S., contracts, one year of audit experience is awarded for each contract worked on.

(e) Preparation Experience	=	Score
3 to 5 years	=	1
6 to 9 years	=	2
10 or more years	=	3

(f) If an applicant has both types of experience, the applicant will be scored on the type resulting in the highest score.

(2) Knowledge of Florida tax law. This is textbook/academic knowledge of the application, concepts and issues concerning the statutes, Department rules, and rulings and decisions in administrative and court cases relevant to the subject tax. It is the combined knowledge (i.e., courses attended) of the firm members named in the application who will work on the audits. The methods by which the applicant may have gained this knowledge are:

(a) Attended and, where applicable, successfully passed a course that is designed specifically to teach audit applications for the Florida revenue law.

(b) Successfully completed a Department course in the Florida revenue laws (each of the Department’s contract audit program and certified audit program courses meet this criterion).

(c) The methodology for determining the Knowledge score is:

Courses Attended and Passed	=	Score
1-2 courses	=	1
3-4 courses	=	2
5-6 courses	=	3
7 or more courses	=	4

(3) Experience in Federal tax law. This is experience in working directly with the Federal Statutes, Internal Revenue Service rules and court cases relevant to the subject tax. It is the combined experience of the firm members named in the application who will work on the audits. The type of experience can either be:

(a) Audit – performing tax compliance audits; or

(b) Preparation – assisting a taxpayer in or preparing Federal tax returns for clients or representing clients on audit issues during the I.R.S. tax compliance audit process in the practice of public accounting.

(c) The evaluation of the relative experience levels for a firm for this factor is accomplished using the definitions and the same scoring methodology used under subsection (1) above.

(d) If the applicant has both types of experience, the applicant will be scored on the type resulting in the highest score.

(4) Results of On-site Quality Review or Peer Review.

(a) The written report on an on-site quality review will indicate the scope of the review, including any limitations thereon; description of the general characteristics of a system of quality control; an opinion on whether the system of quality control for the accounting and auditing practice of the reviewed firm met the objectives of quality control standards established by the American Institute of Certified Public Accountants and was being complied with during the years reviewed, and a description of the reason(s) for any modification of the opinion.

(b) A Letter of Comments is required to be issued in connection with an on-site quality review when there are matters that resulted in modification(s) to the standard form of the report or when there are matters that the review team believes resulted in conditions being created in which there was more than a remote possibility that the firm would not conform with professional standards on accounting and auditing engagements. Such a letter should provide reasonably detailed recommendations for remedial, corrective actions by the reviewed firm.

(c) The reviewed firm has the right to prepare a Letter of Response, which then becomes part of the report.

(d) Peer review reports follow the same format as on-site quality review reports.

(e) Off-site Quality Reports. Off-site quality reports will not be considered in the ranking process.

(f) The methodology for scoring this category shall be:

Report Opinion	=	Score
Adverse	=	0
Qualified	=	1
Unqualified	=	4

(5) Advanced Degrees in Taxation.

(a) These are qualifications above those of an undergraduate accounting degree specifically, masters or doctoral degrees in taxation. Advanced business, accounting, or law degrees with a stated major in taxation will be scored as a master's degree in taxation. Possession of a law degree without a stated concentration in taxation does not qualify for receiving advanced degree points. The score will be based on the combined number of advanced degrees, if any, of the firm members named in the application who will work on the audits.

(b) The Score for these qualifications is as follows: One point for each masters degree in taxation and two points for each doctoral degree in taxation, not to exceed five points total.

(6) Certified Minority Business Enterprises.

(a) This term means C.P.A. firms, including sole proprietorships, certified as a "minority business enterprise" under Section 288.703, F.S. Each applicant's assertion of being a certified minority business enterprise will be verified by the Contract Manager against the certified list provided by the Purchasing Section prior to the ranking of applicants process.

(b) The score awarded to a C.P.A. firm which is a certified minority business enterprise is 5 points. A non-certified firm is awarded zero points.

(7) Performance Evaluation.

(a) The Contract Manager or his/her designee will complete a Performance Evaluation Form for each contract audit completed, excluding surveys, when the General Tax Administration program has completed the review of the subject audit. The contract C.P.A. firm will be evaluated in four areas:

1. Communication:

- a. Kept the Department informed of all relevant developments on a timely basis.
- b. Conducted effective entrance and exit conferences with the taxpayer.
- c. Understood the nature and scope of the audit assignment and the Department's procedures.
- d. Communicated ideas and information effectively, both orally and in writing.
- e. Provided the taxpayer with all the information and documentation necessary to allow the taxpayer to determine whether or not to agree to the proposed audit adjustments.

f. Responded in a timely and effective manner to all taxpayer questions regarding any Florida tax laws (taxpayer education).

2. Knowledge of Florida Tax Law:

- a. Identified all potential audit issues.
- b. Determined what audit adjustments, if any, were necessary for compliance with Florida tax law.
- c. Performed the audit without an unusual amount of Department technical assistance. The amount considered usual will be a

function of both the difficulty level of the audit and the firm’s relative experience level in performing contract audits for the tax.

d. Knew current technical developments and applied them to the audit.

3. Preparation of Audit File:

a. Prepared sufficient, competent supporting documentation for all audit adjustments made and all potential adjustments not made.

b. Complied with Department’s procedures for audit files, including content and order.

c. Properly completed all administrative paperwork: time summary, expense report, etc.

4. Professional Conduct:

a. Represented the Department in accordance with professional standards of the highest quality.

b. Provided prompt and complete answers to any taxpayer questions on Florida tax law.

c. Used good judgment in planning, conducting and reviewing the audit.

d. Complied with the contractual terms established between the firm and the Department.

e. Responded promptly and effectively to all instructions provided by the Department.

(b) Reviewer’s Memorandums received, if any, will be considered in developing the subject ratings.

(c) The Contract Manager will perform a special performance evaluation at any point, based on the contract firm’s actions as discussed in subparagraphs 1. through 3. The special performance evaluation will be weighted at 10 percent of the total hours used as the denominator in the calculation discussed in this subsection and will be included in the ranking process.

(d)1. The Contract Manager or his/her designee will rate the subject firm on each of the line items for the four criteria discussed in this subsection (Communication, Knowledge of Florida Tax Law, Preparation of Audit File, and Professional Conduct) and then determine an overall score for each evaluation completed.

2. Each individual line item in the performance evaluation will be rated as “Below Performance Standards,” “Achieves Performance Standards,” or “Exceeds Performance Standards.” The ratings will carry the following numerical ratings:

a. “Below Performance Standards” equals 0;

b. “Achieves Performance Standards” equals 3.0;

c. “Exceeds Performance Standards” equals 5.0.

The individual line item scores for each performance evaluation will be totaled and divided by the number of line items rated. The resulting average will be the overall rating for that performance evaluation.

3. The Contract Manager or his/her designee will provide supporting comments for any area rated anything other than “Achieves Performance Standards.” All evaluations require Contract Manager approval prior to becoming final.

(e) The methodology for scoring this category is determined as follows:

Performance Evaluation Overall Weighted Rating = Ranking Equation Points

(f)1. The performance evaluation points awarded a firm will be determined using the weighted total of the overall ratings for performance evaluations.

2. For a performance evaluation to be considered in a ranking process, the associated audit must have been:

a. Assigned and completed by the cut-off date provided in Rule 12-25.005, F.A.C. (if applicable);

b. And the Performance Evaluation must be dated no earlier than the two immediately preceding program funding years; and

c. Not included in any previous ranking process.

3. The weight assigned to each included performance evaluation will be the ratio which the incurred audit hours, up to the approved budget, in the subject audit bear to the total of the hours for all audits for all included performance evaluations.

4. An example of the calculation for any C.P.A. firm is as follows:

Step 1: For example – A firm has two Performance Evaluations eligible for the subject ranking process. The firm received two “Below Performance Standards”, 12 “Achieves Performance Standards” and four “Exceeds Performance Standards” on the Performance Evaluation for audit #1, which had a 900 hour budget. The overall rating for that Performance Evaluation would be 3.1 (56 total points divided by 18 line items). The firm received six “Achieves Performance Standards” and 12 “Exceeds Performance Standards” on the Performance Evaluation for audit #2, which had a 100 hour budget. The overall rating for the second Performance Evaluation would be 4.3 (78 total points divided by 18 line items.)

OVERALL SCORE	AUDIT HOURS	FACTOR	x	WEIGHTED OVERALL SCORE
Audit #1-3.1	900	90%		2.8
		(900/1000)		

Audit #2-4.3	100	10% (100/1000)	.4
	<hr style="width: 50px; margin: auto;"/> 1000	<hr style="width: 50px; margin: auto;"/> 100%	<hr style="width: 50px; margin: auto;"/> 3.2

Step 2: 3.2 points for Performance Evaluations would be used in the subject weighted ranking equation.

Any points resulting from performance evaluations accrue only to the legal entity with which the Department entered into the contract.

(8) Other.

(a) Items (1)-(5) in the applicant ranking process address an applicant’s technical qualifications. Including the category “other” in the weighted equation allows the applicant to receive credit for additional qualifications that would make a significant contribution to the applicant’s performance other than the technical qualifications in items (1)-(5). One example would be the applicant’s possession of computer hardware, software, and associated proficiency on such hardware and software, which is above the normal level for C.P.A. firms.

(b) The score for this item can range from 1 to 5 points, as judged individually by the members of the Applicants Ranking Committee.

(9) Fee Proposal. Each applicant is required to submit a single, blended per hour rate as part of their application. The submitted fee proposal will be a line item in the weighted equation, and will be given a weight of 25 percent.

(a) The score for each fee proposal will be determined through an evaluative calculation, as illustrated below:

$$(\text{Low Fee Proposal}/\text{Subject Fee Proposal}) \times 5.0 = \text{Score}$$

(b)1. The term “Low Fee Proposal” means the lowest per hour rate(s) submitted out of the applications selected to be ranked in the respective contract size pool.

2. The term “Subject Fee Proposal” means the specific fee proposal being evaluated during the applicant ranking process. All fee proposals for applications selected for ranking will be evaluated.

3. The term “Score” means the product of the described evaluative calculation, carried to four decimal places. The score will then be assigned a weight of 25 percent, and included in the weighted equation.

(10) Efficiency Calculation.

(a)1. The efficiency calculation will measure how C.P.A. contract firms used the resource of time in completing an audit for the contract auditing program. This calculation will be performed after the subject invoice is approved by the Contract Manager. The calculation will determine the percentage difference, if any, between total billed professional staff hours and the adjusted total audit hours budget.

2. If the adjusted budget is greater than the billed hours, then the calculated difference will be divided by the adjusted budget, and the product of that division will be the achieved efficiency percentage.

(b) The Department reserves the right to adjust the total audit hours budget for the purpose of the efficiency calculation. Such an adjustment is warranted, for example, if the original audit hours budget was based on the premise that five tax years would be audited but it was actually necessary to audit only three years. In this event, the original audit hours budget would be adjusted down for the purpose of the efficiency calculation.

(c)1. This calculation is meant to promote an efficient, cost effective completion of contract audits. In order for a C.P.A. contract firm to be eligible for the efficiency calculation, the tax compliance audit must first be completed to the Department’s express satisfaction.

2. The total efficiency calculation for a subject firm will be used to score the firm for this category. The total efficiency calculation will include all audits completed at the postmark date of the subject application, and no earlier than the two immediately preceding fiscal years.

(d) Example: Adjusted budget	=	1000 hours
Billed hours	=	<u>-900</u> hours
Difference	=	100 hours

100 hours divided by 1000 hours equals a 10 percent achieved efficiency.

(e) The methodology for scoring this category is:

Efficiency Calculation	=	Score
5% to 10% Achieved Efficiency	=	1

11% to 15% Achieved Efficiency	=	2
16% to 20% Achieved Efficiency	=	3
21% to 25% Achieved Efficiency	=	4
26% or greater Achieved Efficiency	=	5

Any points resulting from Efficiency Calculations accrue only to the legal entity with which the Department entered into the contract.

(11) Exclusion from Ranking Process. An applicant will be excluded from the ranking process for the subject fiscal year if:

(a) The applicant has been found guilty in a Board of Accountancy disciplinary action within the last three years.

(b) There are two or more disciplinary actions taken by the Division of Consumer Services, Department of Agriculture and Consumer Services, or similar agency in the applicant firm's state of domicile.

(c) The applicant misrepresents any material fact affecting the applicant's weighted score.

(d) The applicant has any currently unpaid Florida state tax liability or has filed to comply with Florida revenue laws.

(12) Criteria and Weighted Equation.

(a) The criteria and associated weights provided in this section, in conjunction with the provisions of subsections (1) through (9) of this rule section, will be employed in the applicant ranking process whenever a Request for Information has been published. The information used in applying the described criteria will primarily be provided by the applicants' responses to the Request for Information. Other sources are described in this section.

(b) Weighting is accomplished by multiplying the scores for each criterion by an assigned percentage, with the sum of the percentages equaling 100 percent, as follows:

CRITERIA		MAXIMUM POINTS	x	WEIGHT	=	SCORE
1.	Experience in Florida tax law	5		15%		.75
2.	Knowledge of Florida tax law	4		5%		.20
3.	Experience in Federal tax law	5		5%		.25
4.	Results of On-Site Quality Review or Peer Review	4		5%		.20
5.	Advanced Degrees in Taxation	4		5%		.20
6.	Certified Minority Business Enterprise	5		10%		.50
7.	Performance Evaluation	5		15%		.75
8.	Other	5		5%		.25
9.	Fee Proposal	5		25%		1.25
10.	Efficiency Calculation	5		<u>10%</u>		<u>.50</u>
				100%		4.85

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 213.28 FS. History--New 3-20-94, Amended 10-30-96, 7-31-00.

12-25.0058 Dispute Resolution.

(1) Once the negotiation process is completed for any given set of contracts, any applicants not receiving a contract will be notified via letter that the negotiation process for that set of contracts is completed. Applicants not receiving a contract due to the relative ranking (i.e., there were more qualified applicants than available tax compliance contract audits) may file, within 30 calendar days of the date the letter was issued as reflected by the postmark date on the applicant's envelope, a written request for reconsideration with the Contract Manager. The request will include, at a minimum, the grounds for the request.

(a) Acceptable grounds are restricted to:

1. The Committee's failure to comply with Section 213.28, F.S., or applicable rules in force at the date of the subject ranking process; or

2. The Committee's failure to consider documented relevant facts that were provided in the applicant's response to the Request for Information or in response to the questions described in Rule 12-25.0056, F.A.C. For example, if the applicant clearly indicated 14 years of experience performing tax audits for the I.R.S. and the Committee inadvertently only gave the applicant credit for 4 years experience. The burden of proof lies with the applicant.

(b) Disagreements with professional judgments exercised by the Committee in evaluating any subjective criteria are not grounds for re-evaluation. Also, the Department reserves the sole right to determine what statistical sampling techniques, if any, will be used,

and how the selected techniques will be applied. These determinations will not constitute acceptable grounds for initiating the dispute resolution process provided in this rule.

(c) If the Contract Manager determines that the applicant has provided sufficient evidence to support the request, the committee members will be provided with the relevant new information. The committee members will use the new information in completing a revised qualification ranking form for the applicant. The applicant's new ranking will be used in the order of negotiation for any other tax compliance audits or special projects contracts in the subject fiscal year.

(2)(a) As provided in subsection 12-25.0056(7), F.A.C., the Contract Manager or his/her designee will be performing evaluations on each contract C.P.A. firm after each completed tax compliance audit.

(b) A contract C.P.A. firm may file, within 30 calendar days of the date the performance evaluation was signed by the Contract Manager, a written request for reconsideration of the performance evaluation with the Process Manager, Compliance Support process.

(c) This written request must include, at a minimum, what steps have been taken to resolve the dispute with the Contract Manager, and the grounds for the request. Acceptable grounds are restricted to:

1. The Contract Manager's failure to comply with Section 213.28, F.S., or applicable rules in force at the date the performance audit was conducted;

2. The Contract Manager's failure to consider documented relevant facts which were provided by the contract C.P.A. firm. The burden of proof lies with the contract C.P.A. firm.

(d) Disagreements with professional judgments exercised by the Contract Manager in evaluating a firm's performance are not grounds for reconsideration.

(e) The Process Manager, Compliance Support Process, will provide a written response within 45 calendar days of receipt of the request for reconsideration.

(f) The Process Manager, Compliance Support process, is authorized to revise the disputed evaluation if sufficient documented facts are provided to support the request for reconsideration. The Process Manager will sign any revised evaluation.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 213.28 FS. History--New 3-20-94, Amended 10-30-96, 7-31-00.

12-25.006 Selection Procedures for Private Broker Services.

(1) The Department is authorized to obtain the services of a private broker when it is unable to secure contract auditors to provide out-of-state audit services.

(2) To obtain the services of one or more private brokers, the Department shall issue a Request for Proposal as defined in Section 287.012(22), F.S.

(3) After receiving and reviewing the Request for Proposal responses submitted by private brokers, the Department shall use the procedures of the Consultants' Competitive Negotiation Act provided in Section 287.055, F.S., to select a private broker. Contract auditing services are exempt from this competitive bid process, and will be awarded pursuant to the procedures provided elsewhere in these rules.

(4) To qualify as a private broker, an applicant must meet the following conditions:

(a) The applicant shall not have provided tax audit services to the Department pursuant to the provisions of this rule;

(b) The applicant shall not have any currently unpaid Florida state tax liability; and,

(c) The applicant shall not utilize the provisions of Section 213.27, F.S. (Contracts with Debt Collection Agencies) or Section 213.30, F.S. (Compensation for Information Relating to a Violation of the Tax Laws) while under contract to the Department or with regard to any information obtained during the performance of a contractual obligation with the Department.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History--New 5-11-92, Amended 3-20-94.

12-25.007 Contract Auditor Training.

(1) The Department will provide additional opportunities to each contracted certified public accounting firm to gain sufficient knowledge and competence to audit each tax the firm is contracted to audit.

(2) The Department shall require each professional staff member and the engagement partner to successfully pass an examination in the tax the firm is contracted to audit. No professional staff member or engagement partner can work on a contracted audit until he or she passes the examination in the tax the firm is contracted to audit.

(3) All costs of training materials, registration fees, and associated travel expenses and per diem will be borne by the selected

contract auditor.

(4) The Department will provide a contact person through whom a current contract auditor may obtain copies of public information and technical assistance for tax issues related to audits the contract auditor is assigned.

(5) The Department will require that each professional staff person and the engagement partner attend a one-day Department technical update session for each new contract year.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94, 10-30-96.

12-25.008 Contract Auditor Authority.

(1) The contract auditor is authorized to audit and examine the accounts, books, or records of any taxpayer designated and assigned to the contract auditor for audit by the Department under the Contract Audits Program, for the purpose of ascertaining the correctness of any return which has been filed or payment which has been made, or for the purpose of making a return where none has been made.

(2) The contract auditor may inspect such books and records necessary to ascertain the designated taxpayer's compliance with the revenue laws of this state.

(3) Limitation of authority:

(a) This authorization to inspect taxpayer accounts, books, and records will be issued in writing by the Department to the contract auditor and shall begin on the date the authorization is issued by the Department.

(b) This authorization to inspect the designated taxpayer accounts, books, and records shall cease to be effective on the earlier of one of the following dates:

1. It is rescinded in writing by the Department;
2. The audit determination becomes final; or,
3. The subject contract expires.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94, 10-30-96.

12-25.009 Performance of Audit Services.

Except as otherwise provided in the contract executed by the Department, contract auditors shall:

(1) Conduct a tax compliance audit of taxpayers designated by the Department, in accordance with the procedures, terms, and circumstances stipulated in the contract (including any attachments thereto) executed with the Department.

(2) Use a tax compliance audit work program prepared by the contract auditor and approved by the Department for the conduct of assigned audits. After the subject audit starts, the contract auditor may make recommendations to the Department for amending the work program.

(3) Conduct an entrance conference and an exit conference.

(4)(a) Provide the Department with the original of the complete file of tax audit working papers developed during the conduct of the tax audit. The tax audit work papers must contain the revisions necessary to comply with the audit review notes prepared by the Department's review staff.

(b) All workpapers, audit planning documents, files and other materials associated with any contract tax compliance audit maintained by a contract auditor shall be located in a restricted area of the contract auditor's office. Access to all workpapers, audit planning documents, files and other materials shall be strictly limited to those employees whose duties and responsibilities require them to have access.

Rulemaking Authority 213.06(1) FS. Law Implemented 212.10, 213.053, 213.28 FS. History—New 5-11-92, Amended 3-20-94, 7-1-99.

12-25.010 Compensation.

(1)(a) Contract auditors shall be compensated for completed tax compliance audits based on professional staff hours incurred to complete the audit, multiplied by an hourly rate. As established by the revisions to Section 213.28, F.S., the hourly rate for a subject certified public accounting firm will be based on the fee proposal submitted by the firm. Professional fees will be based on a single blended hourly rate multiplied by the actual professional staff hours incurred, up to each contract limit. The single blended hourly rate for a subject C.P.A. firm is that firm's submitted fee proposal.

(b) Contract auditors will be reimbursed for travel expenses at the rate provided under Chapter 112, F.S., and as approved by the

Contract Manager.

(c) The Department will award the contracted C.P.A. firm, for each tax compliance audit satisfactorily completed, an incentive payment if the firm is eligible for such payment:

1. The incentive payment is not guaranteed. The decision to award an incentive payment will be made solely by the Department.
2. The Department will perform a calculation to determine if an incentive payment will be awarded. The calculation will be performed after the subject invoice is approved by the Contract Manager.
3. The calculation will consist of determining the difference, if any, between total billed professional staff hours and the adjusted total audit hours budget. The Department reserves the right to adjust, as specified in Rule 12-25.0056, F.A.C., the total audit hours budget for the purpose of the incentive calculation. If the total billed professional staff hours for the subject audit are equal to or greater than the adjusted total audit hours budget, then the provider is not eligible for an incentive payment.
4. The amount of an awarded incentive payment will be calculated by multiplying the single blended hourly rate by 50 percent of the calculated excess of the adjusted total audit hours budget over total billed professional staff hours.

(2) Private brokers shall be eligible for compensation based on the negotiated rate established through the competitive bidding process. Private brokers shall be entitled to bill the Department for payment for facilitating the securing of contract auditors at such time as the services of the contract auditor are contractually acquired by the Department.

(3) Contracts for auditing services which exceed \$50,000 in professional fees must be approved by the Governor and Cabinet.

(4) Nothing in this rule chapter shall be construed to authorize any compensation of contract auditors or private brokers which is contingent on the amount assessed, the liability revealed, or the refund denied.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94, 10-30-96.

12-25.011 Confidentiality.

(1)(a) Contract auditors are bound by the same confidentiality requirements and subject to the same penalties for disclosure as provided in Sections 213.053 and 213.28, F.S., and Chapter 12-22, F.A.C.

(b) Each contract negotiated will specifically obligate the selected contract auditor to comply with the applicable state statutes and Department rules on confidentiality requirements. Contract auditors will not be provided any tax information on any taxpayer until the auditor signs a contract with the Department.

(c) Willful violations of the confidentiality provisions by contract auditors are punishable as provided in Section 213.28(4), F.S.

(d) Contract auditors shall in no way utilize or benefit from information of any type obtained during the course of a tax compliance audit.

(2) Private brokers under contract with the Department for the purpose of securing contract auditor services, as provided in Section 213.28(2), F.S., are subject to the provisions of Section 213.053, F.S. Taxpayer information shall not be released to private brokers.

(3) Contract auditors who, during the performance of audit services for the Department, discover tax information which may be of interest to other taxing jurisdictions shall report such tax information to the Department, but shall not report such information to the affected jurisdiction.

(4) Nothing contained in these rules authorizes the disclosure of any information prohibited by federal law from being disclosed.

Rulemaking Authority 213.06(1), 213.28(4) FS. Law Implemented 212.10, 213.28 FS. History—New 5-11-92, Amended 3-20-94.

12-25.0112 Scope of Professional Services Rendered.

The tax compliance audit services provided under contract will strictly consist of performing Department of Revenue tax compliance audit functions or Department-approved special audit projects, including proposing audit adjustments. Contract auditors will not perform an attestation function, and will not render an opinion of any nature. In performing these services, contract auditors will be acting solely on behalf of the Department.

Rulemaking Authority 213.06(1) FS. Law Implemented 212.10, 213.28 FS. History—New 3-20-94.

12-25.012 General Administrative Provisions.

Requests for information regarding the Department's contract auditing program should be directed to the Contract Manager, Post Office Box 5139, Tallahassee, Florida 32314-5139.

PART II CERTIFIED AUDIT PROGRAM

12-25.0305 Scope of Rules.

The rules in Part II of this chapter implement the certified audits project authorized by Section 213.285, F.S. The rules set forth in this part are applicable to all taxes imposed by:

- (1) Sections 125.0104 and 125.0108, F.S., unless the tax is self-administered by a county, and
- (2) Chapter 212, F.S.

No later than five years after the effective date of this rule, the Department will evaluate the rules in Part II of this chapter during the agency's annual rulemaking and regulatory plan review conducted pursuant to Section 120.74, F.S, to determine whether the rules remain necessary for the proper implementation of the statutes being implemented. Rules determined to be unnecessary, or that can be implemented in a more efficient or cost-effective manner, will be proposed for repeal or amendment in accordance with the procedures set forth Section 120.54, F.S.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History--New 8-23-99, Amended 1-17-21.

12-25.031 Definitions.

Terms defined in Section 213.285(1), F.S., apply to this Part in addition to the following definitions:

(1) "Audit Plan" means a detailed, comprehensive list of procedures to be used by a qualified practitioner to conduct a review of a participating taxpayer's books and records to determine tax compliance. The Audit Plan will be customized for the participating taxpayer.

(2) "Board" means the State of Florida Board of Accountancy.

(3) "Practitioner(s)" means the individual(s) on the certified audit engagement team who are not qualified practitioners.

(4) "Qualified audit firm" means a certified public accounting firm licensed by the Board which employs a qualified practitioner.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History--New 8-23-99, Amended 1-17-21.

12-25.033 Eligibility and Qualifications.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History--New 8-23-99, Repealed 1-17-21.

12-25.035 Responsibility for Program Training, Certification Procedures, and Program Availability.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History--New 8-23-99, Repealed 1-17-21.

12-25.037 Request to Conduct a Certified Audit.

(1) When a taxpayer wants to participate in the Certified Audit Program, the taxpayer must engage a qualified practitioner to complete a Request to Conduct a Certified Audit (Form DR-342000, effective 01/21, hereby incorporated by reference, <http://www.flrules.org/Gateway/reference.asp?No=Ref-12468>), and submit the request to the Department, along with any required supporting documents.

Copies of this form are available, without cost, by one of the following methods:

(a) Downloading the form from the Department's website at floridarevenue.com/forms.

(b) Writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112.

(c) Calling the Department at (850)488-6800, Monday through Friday (excluding holidays). Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(2) The Department will issue written notification to the qualified practitioner within 10 days after receiving a Request to Conduct a Certified Audit. The notification will state the request has been approved, has been denied, or is incomplete.

(3) If the Department determines a Request to Conduct a Certified Audit is incomplete, the Department will issue a letter explaining how the materials must be revised, expanded, or clarified.

(a) The qualified practitioner will be given 30 calendar days from the date the letter is issued by the Department to submit the revised documents.

(b) If the qualified practitioner does not submit the revised documents within 30 calendar days, the Request to Conduct a Certified Audit will be denied. Both the qualified practitioner and the taxpayer will be notified in writing of the denial.

(c) A qualified practitioner may submit a written request to the Department for a 15-day extension of the 30-day time period. The Department will not accept more than two consecutive written requests for a 15-day extension for the same Request to Conduct a Certified Audit.

(4) The following constitutes grounds for denial of a Request to Conduct a Certified Audit.

(a) The taxpayer has been issued a written notice of intent to audit by the Department, which is dated before the postmark of the Request to Conduct a Certified Audit.

(b) The taxpayer is currently under investigation by the Department or the Department learns the taxpayer is currently under investigation for financial impropriety by a local, state, or federal government entity. The request will also be denied if an investigation by the Department or a local, state, or federal government entity resulted in criminal conviction of the taxpayer for financial impropriety.

(c) The taxpayer has filed for bankruptcy.

(d) There are outstanding liens, warrants, or amounts due which were issued by the Department against the taxpayer. If the Department determines that unsatisfied liens, warrants, or amounts due exist, the Request to Conduct a Certified Audit will be denied. The taxpayer can remedy the reason for denial by satisfying the lien, warrant, or amounts due.

(5) If a Request to Conduct a Certified Audit is denied, the Department's written notification to the qualified practitioner will explain the specific reasons for such denial, unless

(a) An ongoing investigation would be jeopardized; or

(b) The confidentiality provisions of Section 213.053, F.S., prohibit such explanation.

(6)(a) If a qualified practitioner remedies the reasons for denial, the practitioner may request reconsideration of the denial by submitting a written request presenting additional materials facts for review by the Department to the administrator of the Certified Audit Program. The written request must be submitted within 21 calendar days after the date the Department issued the denial of the Request to Conduct a Certified Audit. The request may be mailed or faxed to the Department as follows:

United States Postal Service:

OR

Overnight Mail:

Florida Department of Revenue

Florida Department of Revenue

Certified Audit Program MS 1-4600

Compliance Standards Certified Audit

P.O. Box 5139

2450 Shumard Oak Blvd

Tallahassee, Florida 32314-5139

Building 1-4653

Fax number: (850)921-6174

Tallahassee, Florida 32311

(b) Within 10 days after receiving the request, the Department will issue a final notice of approval or denial to both the qualified practitioner and the taxpayer.

(c) If the qualified practitioner has received a final notice of denial, the qualified practitioner may submit a new Request to Conduct a Certified Audit.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Amended 1-17-21.

12-25.038 Voluntary Disclosure of Liabilities for Other Taxes.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Repealed 1-17-21.

12-25.039 Protest Procedure; Denial of a Request to Participate in the Certified Audit Program.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Repealed 1-17-21.

12-25.041 Suspension of a Certified Audit in Progress.

(1) Approval to participate in the Certified Audit Program will be suspended or revoked by the Department based on the following criteria:

(a) Suspension.

1. The Board suspends the firm license of the qualified audit firm.
2. The Board suspends the license of the qualified practitioner, unless the qualified audit firm employs another qualified practitioner who will take responsibility for the certified audit.

3. The Department initiates an investigation or is notified by another local, state, or federal agency of an investigation for financial impropriety by the taxpayer subsequent to approval of participation but prior to Department approval of the subject certified audit report.

(b) Revocation.

1. The taxpayer files for bankruptcy subsequent to approval of participation but prior to Department approval of the subject certified audit report.

2. The investigation discussed in subparagraph (a)3. of this subsection results in a criminal conviction of the taxpayer for financial impropriety.

3. The Board revokes the firm license of the qualified audit firm.

4. The Board revokes the license of the qualified practitioner, unless the qualified audit firm employs another qualified practitioner who will take responsibility for the certified audit.

(2) A suspension implemented based on the criteria identified in paragraph (1)(a) will last for an initial period of no more than 60 calendar days. At the end of the suspension period the Department must do one of the following:

(a) Lift the suspension and authorize the qualified practitioner to continue to perform any and all certified audits.

(b) Extend the suspension an additional 30 calendar days.

(c)1. Provide written notification to the taxpayer(s) and the qualified audit firm that the qualified audit firm has had its firm license revoked by the Board and the Department is prohibiting the qualified audit firm from performing certified audits. In that circumstance, the taxpayer(s) has 60 calendar days to retain another qualified audit firm. Failure to retain a qualified audit firm within 60 calendar days will result in the application of the provisions of Rule 12-25.045, F.A.C.

2. Provide written notification to the taxpayer(s) and the qualified audit firm that the qualified practitioner has had their license revoked by the Board, and the Department is prohibiting the qualified practitioner from performing certified audits. In that circumstance, the taxpayer(s) has 60 calendar days to retain another qualified audit firm or to provide evidence the current qualified audit firm employs another qualified practitioner who will take responsibility for the certified audit. Failure to either retain a different qualified audit firm or to provide evidence of employment of a qualified practitioner by the current qualified audit firm within 60 calendar days will result in application of the provisions of Rule 12-25.045, F.A.C.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Amended 1-17-21.

12-25.042 Withdrawal from the Certified Audit Program.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Repealed 1-17-21.

12-25.045 A Certified Audit is Initiated by the Taxpayer but Not Completed.

(1) If, for whatever reason, the taxpayer's designated qualified audit firm fails to submit a completed certified audit report after approval of the Audit Plan, a Department auditor will complete the audit.

(2)(a) If the taxpayer withdraws from the Certified Audit Program subsequent to Department approval of participation, but prior to Department approval of the Audit Plan, the taxpayer will again be eligible for selection through the normal case selection process and will be subject to the standard audit selection criteria and procedures.

(b) If the taxpayer withdraws from the Certified Audit Program subsequent to the Department approval of the Audit Plan, the Department will conduct an audit of the taxpayer for the same audit period and taxes addressed by the Audit Plan.

(3) If the Department completes the audit, the taxpayer will not benefit from the automatic abatement of penalty and interest granted by the Certified Audit Program.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Amended 1-17-21.

12-25.047 Development of the Audit Plan.

(1) Within 30 calendar days after receipt of the Department's written notification approving the Request to Conduct a Certified Audit, the qualified practitioner must submit a proposed Audit Plan and procedures for conducting the certified audit to the

Department for its review and approval.

(2) The proposed Audit Plan must include the qualified practitioner's pre-audit analysis of the participating taxpayer's business operations using a Certified Audit Program Pre-Audit Analysis (Form DR-344000, hereby incorporated by reference, effective 01/21, <http://www.flrules.org/Gateway/reference.asp?No=Ref-12469>). This pre-audit analysis is the starting point for development of a customized Audit Plan to perform the tax compliance review of the participating taxpayer. The Certified Audit Program Pre-Audit Analysis form is available, without cost, by one of the following methods.

(a) Downloading the form from the Department's website at floridarevenue.com/forms.

(b) Writing the Florida Department of Revenue, Taxpayer Services, Mail Stop 3-2000, 5050 West Tennessee Street, Tallahassee, Florida 32399-0112.

(c) Calling the Department at (850)488-6800, Monday through Friday (excluding holidays). Persons with hearing or speech impairments may call the Florida Relay Service at 1(800)955-8770 (Voice) and 1(800)955-8771 (TTY).

(3) The audit period for the Audit Plan will be a minimum of two consecutive years, unless the requesting taxpayer has been subject to Florida sales and use tax for less than two years. The audit period must begin in

(a) The month immediately after the ending month of any previous audit,

(b) The month the requesting taxpayer is subject to Florida sales and use tax if subject to the tax less than two years, or

(c) The earliest month within the statute of limitations as provided in Section 95.091, F.S.

(4) To request an extension of time to submit the proposed Audit Plan and procedures, the qualified practitioner must submit a written request to the Department containing the facts establishing reasonable cause for an extension. When the qualified practitioner has established reasonable cause for the extension, the Department will notify the qualified practitioner in writing and grant the qualified practitioner 30 additional calendar days. Reasonable cause is based on all the facts and circumstances and the verifiable showing of extraordinary circumstances as follows:

(a) Personal, family, or business crisis or emergency at a critical time or for an extended period of time that would cause a reasonable person's attention to be diverted from compiling the proposed Audit Plan and procedures; or

(b) Any other cause beyond the control of the qualified practitioner that would prevent a reasonably prudent practitioner from timely submitting the proposed Audit Plan and procedures to the Department.

(5) The Department will approve the proposed Audit Plan and procedures if it determines that the plan and procedures are adequate to perform the tax compliance review. Once the Department approves the Audit Plan, it will become the agreed upon procedures for conducting the certified audit.

(6) Before making any additions, deletions, or revisions to the approved Audit Plan, the qualified practitioner must submit a written request to the Department and receive written approval to amend the Audit Plan.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Amended 1-17-21.

12-25.048 Submission of the Certified Audit Report.

(1) Within 90 days after approval of the Audit Plan, the qualified practitioner must submit the Certified Audit Report to the Department for review and approval.

(2) The Certified Audit Report must meet all the requirements established by the Audit Plan.

(3) The Department is authorized to share any of the information discussed in the Certified Audit Report with any county which, pursuant to law, self-administers the taxes imposed by Sections 125.0104(3) and (10), 125.0108(1), or 212.0305, F.S.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Amended 1-17-21.

12-25.049 Review of Certified Audit Reports.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Repealed 1-17-21.

12-25.050 Protests.

A taxpayer participating in the Certified Audit Program has all the protest rights available to any taxpayer who is audited by the Department, as provided in Rule 12-6.003, F.A.C. If the taxpayer decides to file a protest, the taxpayer may elect to retain the qualified audit firm who performed the certified audit to represent them in the informal protest procedures governed by Section 213.21, F.S. In that circumstance, the qualified practitioner continues in the role as the auditor and remains responsible for providing

the Department any additional information or performing any additional audit work requested by the Department to address the protested tax issues.

Rulemaking Authority 213.06(1), 213.285(7) FS. Law Implemented 213.285 FS. History—New 8-23-99, Amended 1-17-21.