

**43.070 Audit of accounts of county officers and special purpose governmental entities -- Agreed-upon procedures engagement for county clerks and sheriffs.**

- (1) (a) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the Auditor shall audit annually:
  1. The funds contained in each county's budget; and
  2. The books, accounts, and papers of all county clerks and sheriffs.
- (b) The Auditor shall not conduct an audit pursuant to this subsection if the fiscal court or the elected official notifies the Auditor that a certified public accountant has been employed to audit the books, accounts, and papers of the county or the fee office, in accordance with KRS 64.810.
- (c)
  1. If any county clerk or sheriff meets the criteria established in this subsection and any additional criteria established in administrative regulations promulgated by the Auditor, that county clerk's or sheriff's audit required by this section may, in the discretion of the Auditor, be conducted by an agreed-upon procedures engagement performed by the Auditor. If, in the discretion of the Auditor, an agreed-upon procedures engagement in progress will not provide sufficient oversight of the county clerk's or sheriff's office, the Auditor may at any time convert the engagement to an audit performed under paragraph (a)2. of this subsection. A county clerk or sheriff shall not be eligible for the agreed-upon procedures engagement as allowed in this paragraph for the first audit period after election if the county clerk or sheriff is serving in office for the first time, or is assuming the office after experiencing a break in sequential service in that position.
  2. The Auditor and the county clerk or sheriff shall establish specific procedures for any agreed-upon procedures engagement. If the Auditor and the county clerk or sheriff cannot agree to the specific procedures for an agreed-upon procedures engagement, the audit of the county clerk's or sheriff's office shall be conducted under paragraph (a)2. of this subsection for that year subject to the audit.
  3. At a minimum, the county clerk or sheriff shall meet the following criteria in order to be eligible to have the county clerk's or sheriff's annual audit in any particular year conducted using agreed-upon procedures:
    - a. The county clerk or sheriff applies to the Auditor to have an agreed-upon procedures engagement for the year subject to the audit on a form provided by the Auditor and by the application deadline established by the Auditor;
    - b. The county clerk's or sheriff's office did not have any reported audit comment or finding in its most recent audit report;
    - c. The county clerk or sheriff and the Auditor agree to specific procedures for the agreed-upon procedures engagement; and

- d. Any additional criteria that may be determined by the Auditor.
  4. The publication requirements related to an agreed-upon procedures engagement shall be the same as those required for audits of the county clerks and sheriffs performed under paragraph (a)2. of this subsection, except that the Auditor may provide a summary of the agreed-upon procedures engagement report, and publication of the summary shall satisfy the statutory requirements to publish the audit report, opinion letter, and transmittal letter.
  5. The billing and expense provisions of subsection (3) of this section shall apply to any agreed-upon procedures engagement performed under this section.
  6. The Auditor may promulgate administrative regulations that set forth additional criteria to qualify for agreed-upon procedures engagements, the application procedures, and the standards, procedures, guidelines, and reporting requirements for agreed-upon procedures engagements under this section.
  7. In exercising discretion regarding whether a county clerk or sheriff who otherwise meets the minimum requirements may have an agreed-upon procedures engagement in lieu of an audit for any particular year subject to an engagement, and in exercising discretion regarding the proposed procedures for the agreed-upon procedures engagement for any particular year subject to an audit, the Auditor may consider factors including but not limited to past audit comments or agreed-upon procedures engagement findings, assessment of risks, complaints, financial statements, the number of consecutive agreed-upon procedures engagements performed of the county clerk or sheriff, and other factors relevant to oversight of the county clerk's or sheriff's office.
- (2) The Auditor may audit:
    - (a) The books, accounts and papers of all county judges/executive, county attorneys, coroners and constables; and
    - (b) The books, accounts, papers, and performance of all special purpose governmental entities as defined in KRS 65A.010. The expense of any audit or examination performed pursuant to this paragraph shall be borne by the entity audited or examined.
  - (3) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to subsection (1)(a)1. of this section and shall bear the total actual expense of the audit conducted pursuant to subsections (1)(a)2. and (2)(a) of this section. No county shall be required to bear the expense for more than one (1) audit of the same fund or office annually pursuant to subsection (1)(a)1. or 2. of this section, except as provided in KRS 64.810(4).
  - (4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the Auditor of Public Accounts shall bill the county for the expenses incurred pursuant to subsection (3) of this section. A copy of this bill shall be forwarded to the secretary of the Finance and Administration Cabinet. Should the fiscal court within sixty (60) days following

receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution of the controversy in accordance with subsection (5) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the Auditor shall notify the secretary of the Finance and Administration Cabinet and the secretary of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the Auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to the bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in accordance with subsection (5) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

- (5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the Finance and Administration Cabinet and the State Treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the Attorney General, whose decision shall be final.

**Effective:** July 14, 2018

**History:** Amended 2018 Ky. Acts ch. 118, sec. 1, effective July 14, 2018. -- Amended 2013 Ky. Acts ch. 40, sec. 18, effective March 21, 2013. -- Amended 1986 Ky. Acts ch. 51, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 111, sec. 37, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 121, sec. 1, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 197, sec. 11, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 12, effective January 2, 1978; and ch. 20, sec. 6, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 229, sec. 1. -- Amended 1974 Ky. Acts ch. 74, Art. II, sec. 9(1); and ch. 254, sec. 8. -- Amended 1962 Ky. Acts ch. 185, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4636-1.