

1 A bill to be entitled
2 An act relating to fiscal accountability for
3 nongovernmental entities; amending s 215.971, F.S.;
4 revising the required contents of agency agreements
5 that provide state financial assistance or federal
6 financial assistance to certain entities; specifying
7 that certain nonstate entities that enter into agency
8 agreements funded with federal or state financial
9 assistance funds must comply with specified audit
10 requirements at specified intervals; providing an
11 exception; amending s. 215.985, F.S.; defining the
12 term "nongovernmental entity"; requiring
13 nongovernmental entities that have received specified
14 revenues from governmental entities to provide a
15 report to the Department of Management Services;
16 requiring the report to be verified; requiring the
17 department to post the report information received on
18 its website; requiring the nongovernmental entity to
19 post the report information on its website; requiring
20 certain entities to verify submission of the report
21 before receiving government funds; creating s.
22 215.986, F.S.; providing definitions; providing a
23 limitation on the amount of state-appropriated funds a
24 nongovernmental entity may expend on administrative
25 expenses; requiring a nongovernmental entity to use

26 private entity funds before using state-appropriated
27 funds for certain purposes; providing an effective
28 date.

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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Subsection (1) of section 215.971, Florida
33 Statutes, is amended, and subsection (4) is added to that
34 section, to read:

35 215.971 Agreements funded with federal or state
36 assistance.—

37 (1) (a) An agency agreement that provides state financial
38 assistance to a recipient or subrecipient, as those terms are
39 defined in s. 215.97, or that provides federal financial
40 assistance to a subrecipient, as defined by applicable United
41 States Office of Management and Budget circulars, must include
42 all of the following:

43 1.(a) A provision specifying a scope of work that clearly
44 establishes the tasks that the recipient or subrecipient is
45 required to perform.

46 2.(b) A provision dividing the agreement into quantifiable
47 units of deliverables that must be received and accepted in
48 writing by the agency before payment. Each deliverable must be
49 directly related to the scope of work and specify the required
50 minimum level of service to be performed and the criteria for

51 evaluating the successful completion of each deliverable.

52 3.~~(e)~~ A provision specifying the financial consequences
53 that apply if the recipient or subrecipient fails to perform the
54 minimum level of service required by the agreement. The
55 provision can be excluded from the agreement only if financial
56 consequences are prohibited by the federal agency awarding the
57 grant. Funds refunded to a state agency from a recipient or
58 subrecipient for failure to perform as required under the
59 agreement may be expended only in direct support of the program
60 from which the agreement originated.

61 4.~~(d)~~ A provision specifying that a recipient or
62 subrecipient of federal or state financial assistance may expend
63 funds only for allowable costs resulting from obligations
64 incurred during the specified agreement period.

65 5.~~(e)~~ A provision specifying that any balance of
66 unobligated funds which has been advanced or paid must be
67 refunded to the state agency.

68 6.~~(f)~~ A provision specifying that any funds paid in excess
69 of the amount to which the recipient or subrecipient is entitled
70 under the terms and conditions of the agreement must be refunded
71 to the state agency.

72 7.~~(g)~~ Any additional information required pursuant to s.
73 215.97.

74 (b) In addition to the requirements contained in paragraph
75 (a), an agency agreement that provides state financial

76 assistance to a recipient or subrecipient that is a nonprofit
77 organization or a for-profit organization, as those terms are
78 defined in s. 215.97(2), or that provides federal financial
79 assistance to a subrecipient that is a nonprofit organization or
80 a for-profit organization, must include all of the following:

81 1. A provision specifying that funds will only be expended
82 in accordance with their stated purpose and for the benefit of
83 the public.

84 2. A provision prohibiting the funds from being loaned to
85 another entity for any purpose or donated as charitable or
86 political contributions.

87 3. A provision prohibiting the funds from being used for
88 bonuses, exit bonuses, incentive payments, or severance payments
89 to employees of a nonprofit organization or a for-profit
90 organization, except as provided in s. 215.986.

91 4. A provision prohibiting the funds from being used to
92 retain a lobbyist to represent the nonprofit organization or
93 for-profit organization before the legislative or executive
94 branch. However, a full-time employee of the organization may
95 register as a lobbyist and represent the organization before the
96 legislative or executive branch. Except as a full-time employee,
97 a person may not accept public funds from a nonprofit
98 organization or a for-profit organization for lobbying.

99 (4) (a) A nonprofit organization or a for-profit
100 organization that enters into an agency agreement funded with

101 federal or state financial assistance and derives 50 percent or
102 more of its revenue from federal or state funds must comply with
103 the audit requirements of this subsection. The results of each
104 audit must be submitted to the agency with which the
105 organization has an agreement.

106 (b) The nonprofit organization or the for-profit
107 organization shall have the following independent audits
108 conducted, as applicable:

109 1. For a nonprofit organization or a for-profit
110 organization that receives federal or state financial assistance
111 equal to or greater than \$150,000 each fiscal year for 3
112 consecutive fiscal years, the organization must have a financial
113 audit, as defined in s. 11.45(1), completed by June 30 every
114 third fiscal year. Such audit must be conducted by an
115 independent auditor in accordance with auditing standards stated
116 in the rules of the Auditor General. An audit under this
117 subparagraph is not required more frequently than once every 3
118 fiscal years. The audit requirements of this subparagraph do not
119 apply to a nonprofit organization or a for-profit organization
120 during any year in which the organization is required to conduct
121 a state single audit pursuant to s. 215.97.

122 2. For a nonprofit organization or a for-profit
123 organization that receives federal or state financial assistance
124 equal to or greater than \$300,000 each fiscal year for 5
125 consecutive fiscal years, the organization must have an

126 operational audit, as defined in s. 11.45(1), completed by June
127 30 every fifth fiscal year. Such audit must be conducted by an
128 independent auditor in accordance with auditing standards stated
129 in the rules of the Auditor General. An audit under this
130 paragraph is not required more frequently than once every 5
131 fiscal years.

132 3. For a nonprofit organization or a for-profit
133 organization that receives federal or state financial assistance
134 equal to or greater than \$500,000 each fiscal year for 7
135 consecutive fiscal years, the organization must have a
136 performance audit, as defined in s. 11.45(1), completed by June
137 30 of the seventh fiscal year. The Office of Program Policy
138 Analysis and Government Accountability must generate a list of
139 independent entities qualified to conduct performance audits and
140 the nonprofit organization and the for-profit organization must
141 select an independent entity from the list. To be included on
142 the list, an entity must have at least 5 years of experience
143 conducting performance audits, must conduct audits according to
144 applicable auditing or evaluation standards of appropriate
145 authoritative bodies, and must follow applicable industry best
146 practices. An audit under this paragraph is not required more
147 frequently than once every 7 years.

148 (c) This subsection does not apply to a citizen support
149 organization or a direct-support organization created or
150 authorized pursuant to law and created, approved, or

151 administered by a state agency.

152 Section 2. Paragraph (d) of subsection (2) of section
153 215.985, Florida Statutes, is redesignated as paragraph (e), a
154 new paragraph (d) is added to that subsection, and subsection
155 (6) of that section is amended, to read:

156 215.985 Transparency in government spending.—

157 (2) As used in this section, the term:

158 (d) "Nongovernmental entity" means a nonprofit corporation
159 that receives financial assistance from a governmental entity.

160 (6) (a) The Department of Management Services shall
161 establish and maintain a website that provides current
162 information relating to each employee or officer of a state
163 agency, a state university, a Florida College System
164 institution, or the State Board of Administration, regardless of
165 the appropriation category from which the person is paid.

166 1.(a) For each employee or officer, the information must
167 include, at a minimum, his or her:

168 a.1. Name and salary or hourly rate of pay.

169 b.2. Position number, class code, and class title.

170 c.3. Employing agency and budget entity.

171 2.(b) The information must be searchable by state agency,
172 state university, Florida College System institution, and the
173 State Board of Administration, and by employee name, salary
174 range, or class code and must be downloadable in a format that
175 allows offline analysis.

176 (b)1. A nongovernmental entity that receives at least 50
177 percent of its revenue, calculated using the nongovernmental
178 entity's fiscal year, from governmental entities or a
179 nongovernmental entity that meets the audit threshold
180 requirements in s. 215.97 in any fiscal year, must submit to the
181 Department of Management Services by December 31 of each year a
182 report that includes the name, position, and total annual
183 compensation of, including bonuses, exit bonuses, accrued paid
184 time off, severance payments, and incentive payments paid to,
185 each director, board member, chief executive officer, chief
186 financial officer, chief operating officer, or other person
187 performing equivalent functions. The report must be verified as
188 provided in s. 92.525 by a director, board member, chief
189 executive officer, chief financial officer, or chief operating
190 officer of the nongovernmental entity.

191 2. Beginning February 1, 2022, and each February 1
192 thereafter, the Department of Management Services shall include
193 the information reported in subparagraph 1. on the website
194 established under paragraph (a).

195 3. A nongovernmental entity required to submit a report
196 under subparagraph 1. must post the reported information on its
197 website if the entity maintains a website.

198 4. Before receiving funds from a governmental entity, a
199 nongovernmental entity that:

200 a. Received funding subject to this paragraph in the

201 previous year must submit to the governmental entity an
 202 attestation verified as provided in s. 92.525, that the
 203 nongovernmental entity has submitted the report required in
 204 subparagraph 1.

205 b. Did not receive funding subject to this paragraph in
 206 the previous year must submit to the governmental entity an
 207 attestation verified as provided in s. 92.525, that the
 208 nongovernmental entity did not receive funding in the previous
 209 year.

210 5. A governmental entity may not expend or transfer funds
 211 to a nongovernmental entity until the nongovernmental entity has
 212 complied with the requirements of this paragraph.

213 Section 3. Section 215.986, Florida Statutes, is created
 214 to read:

215 215.986 Restrictions on administrative expenses for
 216 certain nongovernmental entities.—

217 (1) As used in this section, the term:

218 (a) "Administrative expenses" mean expenditures that are
 219 considered direct operating costs of a nongovernmental entity,
 220 including, but not limited to:

221 1. The total compensation of the employees and officers of
 222 the nongovernmental entity, including bonuses and exit bonuses,
 223 accrued paid time off, severance payments, and incentive
 224 payments.

225 2. Bookkeeping and support services of the nongovernmental

226 entity.

227 3. Travel expenses, per diem, and lodging expenses not
228 directly associated with a specified corporate purpose.

229 4. Miscellaneous expenses such as food, beverage,
230 entertainment, and conventions.

231 (b) "Nongovernmental entity" means a nonprofit corporation
232 that receives at least 50 percent of its revenue, in any fiscal
233 year of the nongovernmental entity, from state-appropriated
234 funds, including state-appropriated federal funds.

235 (2) A nongovernmental entity may not expend more than 15
236 percent of state-appropriated funds, including state-
237 appropriated federal funds, on administrative expenses. A
238 nongovernmental entity that receives funds from private entities
239 must first use the funds received from the private entities to
240 pay its administrative expenses before using state-appropriated
241 funds, including state-appropriated federal funds.

242 Section 4. This act shall take effect July 1, 2021.