



Auditor of State Betty Montgomery

OHIO COMPLIANCE SUPPLEMENT

Preface

This is the latest revision to the *Ohio Compliance Supplement*, superseding the January, 2004 version. This revision incorporates significant new or revised legal and regulatory requirements as well as comments we have received from auditors and our clients. The following page, titled *Implementation Instructions*, explains how you can identify updates.

In accordance with *Government Auditing Standards*, auditors must design their audit to reasonably assure detecting material misstatements resulting from violations of provisions of laws, regulations, contracts, or grant agreements that directly and materially affect the determination of financial statement amounts (*Government Auditing Standards*, 4.17). Each public office is responsible for identifying the requirements with which the entity and its officials must comply and for implementing systems designed to achieve that compliance (*Government Auditing Standards*, 1.18b).

Ohio law requires audits of each public office. These audits help determine whether the government's financial statements are fairly presented and whether management has complied with significant laws and regulations.

The *Ohio Compliance Supplement* contains certain laws and regulations which are of considerable public interest, or are of the type auditors generally consider direct and material. Though the *Ohio Compliance Supplement* is not a comprehensive listing of applicable laws and regulations, it is designed to help auditors and public offices identify and familiarize themselves with certain laws and regulations which generally apply to a variety of local governments and colleges and universities.

The *Ohio Compliance Supplement* is available only in electronic format, via the Auditor of State's website at <http://www.auditor.state.oh.us/>. We trust you will appreciate that this method of distribution reduces our costs. However, if you are unable to access the website or have difficulty accessing these files, please contact the Accounting and Auditing Support Division at 1-800-282-0370.

As in the past, we plan annual revisions. Comments we receive from our staff and others have always been an important source of revisions and improvements. We appreciate your comments regarding the *Ohio Compliance Supplement* in our continual effort to improve it.

A handwritten signature in black ink that reads "Betty Montgomery".

Betty Montgomery
Auditor of State

March, 2006

Implementation Instructions

This March, *2006 Ohio Compliance Supplement* (OCS) replaces the January, 2004 version. The OCS is available at www.auditor.state.oh.us, under *Publications*, in both Word and Portable Document Format. (Auditor of State staff can also access MS Word versions in the Audit Briefcase.) Due to the wide availability of internet access, we no longer provide the OCS in paper or disc formats.

The seven chapters and appendices D, G, and H are available in MS Word format so auditors can document work or cross reference to other audit documentation in those seven documents. The Introduction and other appendices are only available in Portable Document Format, since we do not expect that auditors would document their work in these sections. Due to complexities regarding laws associated with court fines, it is not practical to summarize these requirements in an appendix. Therefore, this OCS does not include these fine distributions in what was formerly Appendix C.

The Table of Contents follows these Implementation Instructions. A table for each chapter is also located in the front of each chapter. The table of contents identifies legislative requirements. The table identifies new or revised requirements via shading. The table identifies superseded legal requirements using strikeout font. We have not deleted these sections since they may still apply to portions of incomplete audits. For example, Step 6-10 is a new legislative requirement / OCS step, and appears in the table of contents as follows:

6-10 **ORC 3314.03 Sponsor monitoring of community schools**24

In addition, we have included a box at the top left hand corner within each modified step indicating if the section is a revised or new legislative requirement. In both cases, the effective date also appears enable you to easily determine if the revision applies to the audit period. Below are examples appearing in the OCS:

**New section per HB 364,
effective 4/08/03**

**Revisions per OAG Opinion
99-026, SB 82 (effective
6/12/04); and per HB 168
(effective 6/15/04).**

In addition to the box described above, the OCS uses double underlining to indicate new or revised legislative requirements.

The OCS uses waved underlining to highlight:

- Pre-existing laws we have now determined auditors should test (i.e. requirements not appearing in former OCS editions).
- New or amended guidance. Most of these changes represent information we believe will enhance understanding compliance auditing or reporting.

The OCS uses ~~strike-out~~ font to indicate replaced or omitted legislative requirements. We have not deleted these sections since they may still apply to part of an audit period. Also, retaining this information will help users better understand the changes.

Auditors with engagements in process prior to the issuance of the *2006 Supplement* need not discard work performed using the 2004 OCS. However, they must compare the 2006 changes to their work from the 2004 OCS and assure they have tested the legal provisions applicable to their audit period. More than one legal requirement could apply if a legislative change was effective during the audit period.

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LEGAL COMPLIANCE AUDITING IN OHIO

Introduction

Citizens and their public officials want and need to know whether government funds are being handled properly and in compliance with laws and regulations. Public officials entrusted with public resources are responsible for complying with those laws and regulations.

Ohio Administrative Code Section 117-2-05 requires independent auditors of public offices in Ohio to follow the Comptroller General of the United States' generally accepted government auditing standards (*GAGAS*).

Under *GAGAS*, the compliance requirements independent auditors should test are limited to those for which non-compliance may materially affect the financial statements. The auditor's responsibility, as part of the engagement planning, is to identify those compliance requirements subject to these standards. This responsibility currently includes:

- Designing the audit to provide reasonable assurance of detecting material misstatements resulting from direct and material illegal acts;
- Applying procedures specifically directed at determining whether material **indirect** acts have occurred, if specific information comes to the auditors' attention providing evidence of the existence of such acts;
- Designing the audit to provide reasonable assurance of detecting material misstatements resulting from non-compliance with provisions of contracts or grant agreements that have a direct and material effect on the financial statements.

This *Supplement* provides the auditor with State laws and regulations (and some laws and regulations from other sources) the Auditor of State has identified as potentially significant in an audit of Ohio governments. As such, it is a practice aid designed to help auditors fulfill their responsibility. However, auditors should not consider this as a comprehensive list of compliance requirements for all governments.

The *Ohio Compliance Supplement's* first six chapters contain laws and regulations that AOS normally considers "direct and material" under the American Institute of Certified Public Accountants' (AICPA) criteria indicated below. However, ***it is the auditor's responsibility to determine which, if any, compliance requirements are material to the government.*** Particular attention should be paid to other laws and regulations that are created by the government being audited, such as charters of municipalities, municipal ordinances and resolutions (including income tax ordinances), and contracts, grant agreements, debt covenants and leases. If any of these requirements could materially affect the government's financial statements, then the auditor should test them similarly to the laws and regulations in this *Supplement*.

The procedures listed in the "direct and material" sections of the *Supplement* generally are: assess the compliance control environment, document applicable compliance controls, test and evaluate the controls (if applicable), and substantively test compliance.

In addition to the GAGAS requirements, the auditor should plan and test controls over “direct and material” laws, regulations, and provisions of contracts or grant agreements annually for the assertions relevant to these compliance requirements. The auditor should, at a minimum, document controls and determine whether they have been placed in operation. If controls are not likely to be effective, or if the auditor deems it more efficient not to *test* controls for operating effectiveness, then the auditor should document those considerations and apply more extensive substantive compliance tests.

If an item of compliance listed in Chapters 1 through 6 applies but the auditor deems it not direct and material to the entity, then the auditor generally should use the less-extensive documentation and testing procedures Chapter 7 describes. Similarly, if the auditor deems an item in Chapter 7 to be direct and material to the entity, she or he generally should use the more extensive procedures similar to those chapters 1 through 6 describe. If an item of direct and material compliance is not found in the *Supplement* at all (for example, municipal income tax provisions), then the auditor should document and test it similar to procedures found in chapters 1 through 6.

To the extent that a public office does not fall within the classes of public offices addressed in the *Ohio Compliance Supplement*, the auditor should follow the guidance from AU 801.07 in determining legal requirements subject to testing:

“The auditor should obtain an understanding of the possible effects on financial statements of laws and regulations that are generally recognized by auditors to have a direct and material effect on the determination of amounts in an entity's financial statements. The auditor should also assess whether management has identified laws and regulations that have a direct and material effect on the determination of amounts in the entity's financial statements and obtain an understanding of the possible effects on the financial statements of such laws and regulations. The auditor may consider performing the following procedures in assessing such laws and regulations and in obtaining an understanding of their possible effects on the financial statements.

- a. Consider knowledge about such laws and regulations obtained from prior years' audits.
- b. Discuss such laws and regulations with the entity's chief financial officer, legal counsel, or grant administrators.
- c. Obtain written representation from management regarding the completeness of management's identification.
- d. Review the relevant portions of any directly related agreements, such as those related to grants and loans.
- e. Review the minutes of meetings of the legislative body and governing board of the governmental entity being audited for the enactment of laws and regulations that have a direct and material effect on the determination of amounts in the governmental entity's financial statements.
- f. Inquire of the office of the federal, state, or local auditor, or other appropriate audit oversight organization about the laws and regulations applicable to entities within their jurisdiction, including statutes and uniform reporting requirements.
- g. Review information about compliance requirements, such as the information included in the Compliance Supplements issued by OMB;

Compliance Supplement for Single Audits of State and Local Governments and Compliance Supplement for Audits of Institutions of Higher Learning and Other Non-Profit Institutions, Catalog of Federal Domestic Assistance, issued by the Government Printing Office, and state and local policies and procedures.”

The materials included for other public offices in the *Ohio Compliance Supplement* may also serve as guidance in applying these criteria. Guidance for selecting these compliance requirements may also be obtained from the Auditor of State's regional chief auditors. Additionally, Appendix F provides guidance in determining the applicability of certain requirements contained in the *Ohio Compliance Supplement* to certain additional classes of public offices.

Direct and Material Laws and Regulations

The AICPA Audit and Accounting Guide *State and Local Governments*, sections 4.43 through 4.48, discusses legal requirements which might directly and materially affect financial statement amounts for a governmental entity. These include:

- *Generally accepted accounting principles (GAAP) requirements* – governments often are subject to legal or contractual provisions requiring them to prepare GAAP financial statements. Determining the financial reporting entity under GAAP requires applying certain criteria, including laws and regulations governing the organization and accountability for activities. Failure to conform to statutory requirements may affect the determination of the reporting entity.
- *Federal and state taxes and tax reporting* – governments are subject to various federal and state tax requirements, including those relating to employment taxes, employee benefits, and tax-exempt debt (such as arbitrage rebate requirements). The entity must account for and report taxes (and other such items, such as retirement system contributions) withheld and payable from employees' wages, and prepare and file appropriate tax information forms, such as debt issuance notices and forms 1099.
- *Legal authority for transactions* – Governments often cannot execute transactions unless authorized by law. (E.g., for appropriations - resources expended should be as authorized by the legislative authority.)
- *Establishment of funds* - various statutory provisions affect the fund structure of governmental units and the allocation of revenues. For example, Ohio Rev. Code Section 5705.09 establishes the basic fund structure for political subdivisions in the State of Ohio, and Ohio Rev. Code Section 5705.10 establishes basic legal requirements for allocating receipts to funds. Failure to comply with these statutory requirements may materially affect financial statement amounts.
- *Time and other eligibility requirements and purpose restrictions on nonexchange transactions* - time and other eligibility requirements and purpose restrictions affect the recognition and reporting of nonexchange transactions. Failure to comply with a provider's eligibility requirements and purpose restrictions may cause the provider to withdraw the intended support or request a refund of amounts previously paid (e.g., unallowable costs for federal programs under Office of Management and Budget Circular A-87, *Cost Principles for State and Local Governments*, that were inappropriately charged to those programs). Governments are often subject to constitutional and statutory limitations upon the purpose for which monies may be legally expended (e.g., the constitutional prohibition in Ohio upon expending motor vehicle and license tax monies for purposes other than highway maintenance and repair).
- *Other legal- and contract-based compliance requirements* – resource providers may impose other compliance requirements on recipients (e.g., federal financial assistance programs often require recipients to adhere to specific procurement and cash management policies). These compliance requirements may also include: matching requirements whereby grantors impose matching requirements as a condition of receipt of a grant, revenue recognition may be contingent upon compliance with those requirements; and procurement requirements whereby contracts and other procurement should be in accordance with applicable bidding or other purchasing requirements.

- *Budgets* - GAAP requires that governmental entities report budgetary data for certain governmental funds for which annual budgets are legally required. A failure to conform to statutory budgeting requirements directly affects the budgetary data required to be reported under GAAP
- *Tax and debt limitations* - Constitutional and statutory limitations may prohibit levying taxes or incurring debt. Levying a tax in violation of such a prohibition directly affects the financial statement treatment of the proceeds.
- Note disclosure (SLG 4.48) – GASB Cod. 2300.106(h) requires **financial statement note disclosure** of significant violations of “finance-related legal or contractual provisions” **and actions taken to address such violations**. Failure to include the required disclosures could require modifying the auditor's opinion. The GASB Codification does not define “finance-related legal or contractual provisions. However, the following sources provide the examples listed below:

<p><u>a. The accounting system must include all funds required by law or regulation to help assure restrictions on expenditures are met.</u></p>	<p><u>NCGA 1, par. 8 Cod. 1200.106</u></p>
<p><u>b. 1. Any excesses of expenditures over appropriations in the general or major special revenue funds included in budgetary statements. (Disclose in footnotes to RSI if presented as RSI.)</u></p> <p><u>2. Disclose significant excesses of expenditure over appropriations for other funds.</u></p>	<p><u>GASB 37, par. 19 Cod 2200.180</u></p> <p><u>GASB Comprehensive Implementation Guide 7.390</u></p>
<p><u>c. Violations of debt covenants or contracts.</u></p>	<p><u>Cod 2300.903, Illustrations 4, 5, 6</u></p>
<p><u>d. <i>Governmental Accounting, Auditing and Financial Reporting (GAAFR)</i> suggests the following constitute “finance-related legal and contractual requirements:”</u></p> <ul style="list-style-type: none"> • <u>Budgetary</u> • <u>Grant requirements</u> • <u>Bond covenants</u> • <u>Deposits and investments</u> 	<p><u>GAAFR 224</u></p>

The AOS also considers that the following would be finance-related legal or contractual noncompliance, requiring disclosure:

- Expending tax levy proceeds in violation of limitations upon expenditure.
- Issuing debt in excess of statutory limitations.
- Tax reporting - reporting in accordance with federal, state, and local requirements. This could include such things as arbitrage rebates, federal and state tax withholdings and matching employer liabilities, and reporting bonded debt issuances.
- Procurement - whether contracts for goods and services are properly bid or negotiated.

Immaterial Laws and Regulations

The Auditor of State has audited compliance by public offices with legal requirements since 1902. Audits of Ohio public offices have been subject to Ohio Rev. Code Chapter 117, or its predecessor, since that time. Section 117.11 (A) states in part that when auditing Ohio public offices:

. . . [i]nquiry shall . . . be made into . . . whether the laws, ordinances, and orders pertaining to the office have been observed, and whether the requirements and rules of the auditor of state have been complied with.

Although a literal interpretation of Ohio Rev. Code Section 117.11 (A) would require testing all applicable legal requirements during an audit, the Auditor of State has determined that it is appropriate in an audit to limit the compliance requirements included in an audit of a given public office to:

- Compliance requirements for which non-compliance may materially affect the financial statements of the entity (i.e. the *GAGAS* requirement); and
- Compliance requirements which, although possibly not material to the financial statements, the Auditor of State deems to be of significant public concern regarding public policy, public stewardship, or public accountability. Chapter 7 generally includes these requirements.

Since Chapter 7 contains laws and regulations that are probably not, in most circumstances, “direct and material,” the auditor should inquire of management and perform certain other limited substantive tests. If existing controls or substantive compliance tests already satisfy these objectives, the auditor should cross-reference such work to these sections.

Compliance Risk and Controls

Generally accepted auditing standards indicate that the auditor is responsible for planning and auditing to reasonably assure whether the financial statements are free of material misstatement, whether caused by error or fraud. For direct and material “illegal acts,” the auditor’s detection responsibility for these misstatements is the same as that for errors.

Audit procedures sufficient to detect a misstatement arising from an error may not be sufficient to detect a misstatement arising from fraud, due to the possibility of collusion among employees or management personnel or other schemes to conceal the fraud. For this reason, the auditing standards stress the need to exercise due care in planning, performing, and evaluating the results of audit procedures as well as the need to exercise an appropriate degree of professional skepticism.

As part of audit planning, the auditor must consider factors affecting audit risk and understand internal controls. Based on this understanding, the auditor's concern about the risk of material misstatement should either be heightened or mitigated. General factors to consider in assessing financial audit risk include:

- *Management’s characteristics and influence over the control environment.* These pertain to management’s abilities, pressures, style, and attitude relating to internal control and the financial reporting process.
- *Governmental conditions.* These involve the economic and regulatory environment in which the entity operates.
- *Operating characteristics and financial stability.* These pertain to the nature and complexity of the entity and its transactions, the entity’s financial condition, and its operating stability.
- *Susceptibility of assets to misappropriation.* These pertain to the nature of an entity’s assets and the degree to which they are subject to theft.
- *Controls.* These involve the lack of controls designed to prevent or detect misappropriations of assets.

The auditor should understand internal controls relevant to financial statement assertions affected by laws and regulations. Auditors use that understanding to identify types of potential misstatements, consider factors that affect the risk of material misstatement, and design substantive tests.

Taking a control assessment approach to a compliance audit of Ohio laws and regulations involves documenting each of the five components of internal controls -- the control environment, risk assessment, control activities, information and communication, and monitoring -- that the auditor considers relevant to preventing or detecting non-compliance with such laws and regulations, and assessing control risk that such non-compliance could occur and not be detected in a timely manner.

In assessing the compliance controls environment, the auditor might consider:

- Existence of a monitoring system for compliance with such areas as debt issuance, budgets, contracts, and intergovernmental assistance;
- Management's attitudes toward compliance with laws and regulations;
- Legal actions brought against the government, and/or its elected and appointed officials;
- Involvement of the governing authority and management in the control structure to assure compliance.

The following factors may influence the auditor's assessment of risk of significant non-compliance with laws and regulations:

- *Elected officials and management should convey the message that integrity and ethical values with the organization cannot be compromised and employees must receive and understand that message.*

Management should make it clear through personal actions and policy statements the importance of ethical and honest behavior. If management is unable to communicate this message it is doubtful that they can remove or reduce incentives for an employee to engage in dishonest, illegal, or unethical acts.

- *Management must specify the level of competence needed for particular jobs, and translate the desired levels of competence into requisite knowledge and skills.*

Management should analyze, on a formal or informal basis, the tasks comprising particular jobs, considering such factors as the extent to which individuals must exercise judgment and the extent of related supervision. If employees are not trained and they do not know what is expected of them, there is an increased risk of error which could result in material non-compliance.

- *An active and effective governing board, or committees thereof, provides an important oversight function and, because of management's ability to override system controls, the board plays an important role in ensuring effective internal control.*

The board should constructively challenge management's planned decisions (e.g., letting of contracts, issuance of debt, depository agreements) and probe for explanations of past results (e.g., budget variances).

- *The philosophy and operating style of management normally have a pervasive effect on an entity.*

Management should move carefully, proceeding only after carefully analyzing the risks and potential benefits of a venture. For example, if management does not move carefully, there is an increased risk that they might purchase riskier investment types or issue significant amounts of debt that approach or exceed the legal debt limit.

- *The organizational structure should be neither so simple that it cannot adequately monitor the entity's activities nor so complex that it inhibits the flow of necessary information.*

Non-elected officials, senior management, and others in key management positions (particularly those that have direct responsibility for compliance with material laws and regulations) should fully understand their control responsibilities and possess the requisite experience and levels of knowledge commensurate with their positions.

- *The assignment of responsibility, delegation of authority and establishment of related policies provide a basis for accountability and control, and set forth individuals' respective roles.*

Management should make sure that the employees understand the scope of their assigned duties. If management is unable to communicate to an employee his or her responsibilities, it is doubtful that they can reduce the likelihood of unnecessary mistakes made by employees.

- *Human resources policies are central to recruiting and retaining competent people to enable the entity's plans to be carried out so its goals can be achieved.*

Management should establish personnel policies and procedures that result in recruiting or developing competent and trustworthy people necessary to support an effective internal control system. If management does not strive to hire competent people, there is an increased risk that an employee may engage in dishonest, unethical or illegal acts.

If adequate controls exist to reduce the risk that significant non-compliance could occur and not be detected on a timely basis, the auditor may be able to reduce substantive testing of those compliance items. However, to use a controls reliance approach (an assessment that control risk is less than maximum or low), the auditor must:

1. Identify controls relevant to preventing or detecting material or significant non-compliance with these identified laws and regulations;
2. Test controls to obtain sufficient evidence controls' operating effectiveness, as well as placed in operation;
3. Document the tests of controls.

Generally accepted auditing standards note that:

- The lower the assessed level of control risk, the greater the assurance evidential matter must provide that controls were operating effectively [AU 319.80];
- Inquiries alone will not support an assessment at less than maximum [AU 319.95];

- The auditor should consider that the evidential matter obtained by some tests of controls, such as observation, pertains only to the point in time at which the auditing procedure was applied. Consequently, such evidential matter may be insufficient to evaluate the effectiveness of the design or operation of controls for periods not subjected to such tests. [AU 319.96];
- Tests of controls from prior audits or from interim audit work may be used, however, the auditor must obtain evidence about the nature and extent of significant changes in policies, procedures, and personnel [AU 319.98];
- Risk assessments may require reconsideration when substantive tests indicate misstatements [AU 319.104].

Organization of The Ohio Compliance Supplement

The *Ohio Compliance Supplement* includes, for each compliance requirement:

- a reference to the underlying legal authority, including statutory provisions, administrative rules, court decisions, and opinions of the Attorney General;
- a summary of the requirement; and
- for potentially **direct and material** laws and regulations, “points of (control) focus” and recommended audit procedures; or
- for **other** laws and regulations, suggested questions for management.

In addition, for both types of law or regulation, there are sections provided to document persons interviewed, tests performed (including, if appropriate, cross-references to working papers where tests of controls and substantive tests of legal compliance were performed) and conclusions and tentative recommendations.

While the auditor may exercise professional judgment in determining specific compliance requirements to test in a given audit, the AOS anticipates that:

- Compliance requirements material to the financial statement shall be tested in each audit (generally, Chapters 1 through 6);
- Compliance requirements not material to the financial statements identified in the *Ohio Compliance Supplement* (generally, Chapter 7) shall be the subject of audit tests on at least a biennial basis, as provided in Ohio Rev. Code Section 117.11. Auditors can cycle some Chapter 7 tests every other audit. Chapter 7 labels which tests the auditor can cycle.

Although the *Ohio Compliance Supplement* sets forth recommended audit procedures for each compliance requirement, ***determining the specific audit procedures to be applied, both as to material and non-material compliance requirements, is a matter of professional judgment.***

Reporting

Government Auditing Standards (GAGAS) require the auditor to report on the client's compliance with laws and regulations.

There currently are three possible ways to report on perceived non-compliance findings:

1. A *GAGAS* report on “reportable” findings of non-compliance.
This is a published report.
2. A management letter.
This is a non-published report to management. However, the auditor's report on compliance required by *GAGAS* refers to it and it is subject to release to any requesting party under Ohio's public records laws.
3. Orally.
Inconsequential non-compliance may be brought to management's attention orally during the course of the audit. The audit working papers should document these discussions.

Examples of the *GAGAS* and “management letter” reports follow. The auditor should refer to the AICPA's accounting and auditing guide, *Government Auditing Standards and Circular A-133 Audits*, for reporting examples. (AOS staff can access these examples in the Audit Briefcase.)

**INDEPENDENT ACCOUNTANTS' REPORT ON INTERNAL CONTROL OVER
FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
REQUIRED BY GOVERNMENT AUDITING STANDARDS**

Governing Body
Any Local Government
ABC County

To the Governing Body:

We have audited the financial statements of the governmental activities, the business-type activities, the discretely presented component unit, each major fund, and the aggregate remaining fund information of Any Local Government, ABC County (the Government) as of and for the year ended December 31, 2005, which collectively comprise the Government's basic financial statements and have issued our report thereon dated February 28, 2006. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Government's internal control over financial reporting to determine our auditing procedures in order to express our opinions on the financial statements and not to opine on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Government's ability to record, process, summarize, and report financial data consistent with management's assertions in the financial statements. A reportable condition is described in the accompanying schedule of findings as item 20XX-02.

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts material to the financial statements we audited may occur and not be timely detected by employees when performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered material weaknesses. However, we do not believe the reportable condition described above is a material weakness.

Compliance and Other Matters

As part of reasonably assuring whether the Government's financial statements are free of material misstatement, we tested its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could directly and materially affect the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express an opinion. The results of our tests disclosed an instance of noncompliance or other matters we must report under *Government Auditing Standards*, which is described in the accompanying schedule of findings as item 20XX-01.

We noted a certain matter that we reported to management of Example Entity in a separate letter dated February 28, 2006.

We intend this report solely for the information and use of the audit committee, management, the Governing Body, federal awarding agencies, and pass-through entities. It is not intended for anyone other than these specified parties.

Betty Montgomery
Auditor of State

February 28, 2006

SCHEDULE OF FINDINGS AND QUESTIONED COSTS
OMB CIRCULAR A -133 § .505

ANY LOCAL GOVERNMENT
ABC COUNTY
DECEMBER 31, 2006

1. SUMMARY OF AUDITOR'S RESULTS		
<i>(d)(1)(i)</i>	<i>Type of Financial Statement Opinion</i>	Unqualified
<i>(d)(1)(ii)</i>	<i>Were there any material control weakness conditions reported at the financial statement level (GAGAS)?</i>	No
<i>(d)(1)(ii)</i>	<i>Were there any other reportable control weakness conditions reported at the financial statement level (GAGAS)?</i>	Yes
<i>(d)(1)(iii)</i>	<i>Was there any reported non-compliance at the financial statement level (GAGAS)?</i>	Yes
<i>(d)(1)(iv)</i>	<i>Were there any material internal control weakness conditions reported for major federal programs?</i>	No
<i>(d)(1)(iv)</i>	<i>Were there any other reportable internal control weakness conditions reported for major federal programs?</i>	Yes
<i>(d)(1)(v)</i>	<i>Type of Major Programs' Compliance Opinion</i>	Unqualified
<i>(d)(1)(vi)</i>	<i>Are there any reportable findings under § .510?</i>	Yes
<i>(d)(1)(vii)</i>	<i>Major Programs (list):</i>	Medical Assistance Program – Title XIX (CAFS) - CFDA #93.778 Highway Planning and Construction - CFDA#20.205
<i>(d)(1)(viii)</i>	<i>Dollar Threshold: Type A\B Programs</i>	Type A: > \$300,000
<i>(d)(1)(ix)</i>	<i>Low Risk Auditee?</i>	Yes

**2. FINDINGS RELATED TO THE FINANCIAL STATEMENTS
REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS**

<i>Finding Number</i>	20XX-001
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Ohio Rev. Code Section 5705.38 requires in part that each fiscal year, subdivisions and other taxing units are to certify to the County Auditor the total amount from all sources available for expenditure from each fund in the tax budget, along with any balances that existed at the end of the preceding year.

The County’s Certificate of Estimated Resources filed with the County Budget Commission did not report estimated resources on an individual fund basis. The County budget commission was unable to certify the availability of resources for appropriation to any given fund as a result.

The County Auditor stated he did not understand this requirement. He agreed to review this Revised Code requirement.¹

We recommend the County prepare future Certificates with the required individual fund information.

<i>Finding Number</i>	20XX-002
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See (federal) finding # 20XX-002 below. We must also report this finding in this report.

3. FINDINGS AND QUESTIONED COSTS FOR FEDERAL AWARDS

1. DATA PROCESSING - SYSTEMS SECURITY

<i>Finding Number</i>	20XX-002
<i>CFDA Title and Number</i>	Medical Assistance Program – Title XIX (CAFS) - CFDA #93.778
<i>Federal Award Number / Year</i>	NN - N4 / FYE 6/30/20XX
<i>Federal Agency</i>	Department of Jobs & Family Services
<i>Pass-Through Agency</i>	Ohio Department of Education

INTERNAL CONTROLS - REPORTABLE CONDITION

Logical access to automated information should be properly restricted by a password associated with access rules. Passwords should be of adequate length, difficult to guess, and contain no repeating characters. Also, procedures should provide for suspending user identification codes or disabling terminal, microcomputer, or data entry device activity after a particular number of unsuccessful attempts to access the system or applications.

The personal identification code (similar to an individual user password) used for the Transaction Interface Processing (TIP) control software package does not have minimum length requirements. Instead, the personal identification code is a five-digit random number, generated by the computer system. Also, the TIP system did not have log-in parameters to limit the

¹ See *Client Responses* later in this Introduction.

number of unsuccessful log-in attempts. Although log-in parameters for the system were set to five attempts, this control did not prevent access, when tested.

Not setting minimum length and alphanumeric passwords, in conjunction with not limiting the number of unsuccessful log-in attempts, could allow an individual to try repeatedly to log into the system. This could result in an unauthorized individual gaining access to the system and accidentally or intentionally deleting or altering a computer program or information.

The Government has not changed the personal identification code because it is part of the Univac operating system. Any changes to the personal identification code would require a major re-write to the system, and may need to be performed by the vendor.

In addition, the Government believed there was an automated control that limited the number of log-in attempts to the system.

We recommend the Government set passwords to a minimum of six characters and require the passwords be alphanumeric to provide more permutations and reduce the risk of gaining unauthorized access to the computer system. We also recommend the Government establish a sign-on parameter with a value of less than or equal to five attempts in order to decrease the possibility of unauthorized users accessing the computer system. All users should sign-off on the security policy to demonstrate their understanding of the policies contained therein.

Management Letter

Governing Body
Any Local Government
ABC County, Ohio

In accordance with *Government Auditing Standards* applicable to financial audits, we have audited the financial statements of Any Local Government, ABC County, Ohio (the Government), as of and for the year ended December 31, 2005, and have issued our report thereon dated February 28, 2006.

Government Auditing Standards also require that we describe the scope of our testing of compliance with laws and regulations and internal control over financial reporting and report any irregularities, illegal acts, other material noncompliance and reportable conditions in the internal controls. We have issued a report dated February 28, 2006 on compliance and internal control over financial reporting required by *Government Auditing Standards* as of and for the year ended December 31, 2005.

Office of Management and Budget Circular A-133 requires that we report all material, and certain immaterial, instances of noncompliance, and to report on internal control, related to major programs. We have issued a report dated February 28, 2006 on compliance and on the internal controls required by *Office of Management and Budget Circular A-133* as of and for the year ended December 31, 2005.

We are submitting for your consideration the following comments on the Government's compliance with applicable laws and regulations and on its internal controls. These comments reflect matters that, while in our opinion do not represent material instances of noncompliance or reportable internal control conditions, we believe represent matters for which improvements in compliance or internal controls or operational efficiencies might be achieved. Due to the limited nature of our audit, we have not fully assessed the cost-benefit relationship of implementing the recommendations suggested below. However, these comments reflect our continuing desire to assist your government. If you have any questions or concerns regarding these comments please do not hesitate to contact us.

Audit Committee

The County should establish an audit committee. Audit committees can serve as "informed, vigilant, and effective overseers of the financial reporting process and internal controls." An audit committee should perform the following functions:

- Review the annual unaudited financial report submitted to the Auditor of State;
- Periodically review the process used to prepare interim financial information submitted to the County;
- Review audit results;
- Assure that audit recommendations are appropriately addressed;
- Assure auditors' independence from management;
- Serve as liaison between management and independent auditors.

Generally accepted auditing standards require that auditors communicate the following information to an audit committee:

- The auditors' professional responsibility under generally accepted auditing standards;
- Selections of accounting policies;
- Sensitive accounting estimates;
- Significant audit adjustments;
- Disagreements with management;
- Difficulties encountered in performing the audit.

The audit committee can include officials of the Government. However, the Government Finance Officers Association recommends also including representation independent from elected officials and management. The committee could include professionals knowledgeable in the Government's operations and in accounting, such as attorneys or bankers. The audit committee should meet regularly (perhaps quarterly) to monitor the Government's financial reporting and control activities, and should meet with its independent auditors before and after each audit.

We intend this comment for the information and use of the audit committee, the Governing Body and management. These comments are not intended for anyone other than these specified parties.

Betty Montgomery
Auditor of State

February 28, 2006

Audit Findings

An audit *finding* is a conclusion of fact drawn by an auditor as part of the audit process. Findings of legal non-compliance in Ohio fall into three categories²:

- noncompliance citations,
- findings for adjustment, and
- findings for recovery.

Non-Compliance Citations

Non-compliance citations should include formal citations to appropriate legal authority (i.e. the *criteria* GAGAS 5.15 requires in written noncompliance findings). Legal authorities auditors can cite in an audit report include the Federal and State constitutions, the United States Code and rules, the Ohio Revised Code and rules, Federal and State court decisions, Federal and State regulations, opinions of the Attorney General, and opinions of the Ohio Ethics Commission. Auditors may refer to bulletins and other advisory materials within the text of a finding as additional guidance, but bulletins and advisory materials are not legally binding criteria.³

For example, AOS Bulletin 2002-004 states the AOS' position is that local governments should record and budget Ohio Public Works Commission infrastructure project (Issue II money) receipts and disbursements when the local government does not directly receive or disburse this money. When a government fails to record or budget this money, the citation would be to the sections within Ohio Rev. Code Chapter 5705 requiring budgeting and recording this money, not Bulletin 2002-004. However, it is desirable for the finding to *suggest* the local government officials review and follow the accounting and budgeting guidance from AOS Bulletin 2002-004.

Also, as described in *Government Auditing Standards*, auditors should report material non-compliance with provisions of contracts or grant agreements.

Appendix A to the *Ohio Compliance Supplement* sets forth guidelines for the appropriate form for citing legal authority.

GAGAS 5.19 requires each non-compliance citation to include, *to the extent possible*, the:

- *Condition*
- *Criteria*

² Questioned costs normally apply only to A-133 audits of Federal programs. This discussion does not pertain directly to A-133 audits.

³ RC 117.20(C) states that the Auditor of State may prepare and disseminate to public offices and other interested parties advisory bulletins, directives and instructions relating to accounting and financial reporting systems, budgeting procedures, fiscal controls and constructions by the Auditor of constitutional and statutory provisions, court decisions and opinions of the Attorney General. These bulletins, directives and instructions are of an advisory nature.

- *Effect*
- *Cause*

Also, per GAGAS 5.15, “If auditors are able to sufficiently develop the findings,” they should recommend actions to correct the matter.

Client Responses

GAGAS 5.26 states

“..... Auditors should obtain and report the views of responsible officials concerning findings, conclusions, and recommendations, as well as planned corrective actions Auditors should include in their report a copy of the officials’ written comments or a summary of the comments received.”⁴

Therefore, if an auditee responds to a finding, we must include their response in the applicable report (i.e., GAGAS or A-133 report).

If an auditee responds verbally to a finding (for example, at the post audit conference) we should ask if they wish to include their response in the report.

We should recognize that the tone of these responses will vary. Some officials will prepare thoughtful responses, perhaps even acknowledging responsibility for the error. Conversely, other officials will feel we have been unfair, that we do not understand the *criteria* (e.g. law) we are citing or draft a response impugning our abilities or motives. Regardless, we should carefully consider these responses. If there is significant disagreement regarding a finding, we should attempt to resolve the disagreement, if practical. For example, if there is disagreement regarding a grant requirement, we might contact the grantor and obtain the grantor’s interpretation of the requirement.

GAGAS 5.30 states that when we believe the responses lack validity or when planned corrective action does not adequately address the issue, we should state our reasons for disagreeing with the client’s response or corrective action. However, we should always attempt to resolve disagreements before issuing the final report. If we can resolve the differences, the report should not include the client’s original response. (We can include an updated response, if requested.) The report should not refer to a disagreement, since the disagreement no longer exists.

If we cannot agree with the client, we should summarize the client’s substantive reasons for disagreeing and our reasons, per GAGAS 5.30. Responses indicating significant disagreement require review by the Accounting & Auditing Support Group. (This review requirement does not apply to IPA audits.)

⁴ GAGAS 5.28 suggests auditors should normally request the responsible officials to submit their response in writing. Auditors should retain a copy in their audit documentation. See GAGAS 5.26 – 5.30 for the complete text of the requirements.

Important: In some instances, we should include most of the text of the client's response, if the issue is complex or if there is substantial disagreement. However, often we need not include the complete text of the client's response in our reports. For brevity, we prefer a summary within the body of the finding in question, indicating their general agreement or disagreement and planned corrective action.⁵ Deciding whether to summarize versus including the complete text requires auditor judgment. When we summarize the response, we must allow the client to read the draft finding, our summary of their response, and our rebuttal to their response if we disagree with it. We should include their signature on a draft of the finding in the audit documentation indicating they have read the final draft, including their response (and our rebuttal, if there is one).

Findings for Adjustment

Audit procedure results may determine an audited entity has posted receipts to a fund having no authority to receive them, or has made expenditures not authorized to be made from one fund but permissible from another.

In these instances, it may be appropriate to make a *finding for adjustment*, that is, a reallocation of receipts or disbursements to the proper funds. Whether the auditor recommends an adjustment, and the manner in which it is recommended, will depend on: (1) the nature of the adjustment, i.e., whether it is material, clearly inconsequential, or immaterial; (2) whether the auditee agrees with the adjustment; and (3) whether the misallocation of funds also constitutes a violation of law warranting a non-compliance citation.

All adjustments fall into one of the following categories:

- 1 Material adjustments with which the auditee agrees, which have been posted to the accounting records and which are reflected in the audited financial statements;
- 2 Material adjustments with which the auditee disagrees and which are neither posted to the accounting records nor reflected in the financial statements;
- 3 Clearly inconsequential adjustments are those \$100 and under.
- 4 Immaterial adjustments which are more than clearly inconsequential.

Treatment of Findings for Adjustment in Audit Reports

Adjustments in the first category and which are based on a violation of legal authority will result in a noncompliance citation reported in the GAGAS report. The auditor should not use a "finding for adjustment statement" (i.e. "In accordance with the foregoing facts, we hereby issue a finding for adjustment . . .") but the finding should briefly state the client has posted adjustments which are also reflected in the financial statements. No qualification of the auditor's opinion on the financial statements is necessary.

⁵ An example of a *summarized* response appears in Example Finding 20XX-001 in this Introduction: "The County Auditor stated he did not understand this requirement. He agreed to review this Revised Code requirement."

Adjustments in the second category and which are based on a violation of legal authority will result both in a noncompliance citation and, normally, a qualification paragraph in the auditor's report on the financial statements. The noncompliance citation will also include the finding for adjustment statement. The qualification paragraph in the report should briefly disclose the pertinent facts, eliminating the need for further explanation in a note to the financial statements.

Adjustments in the third category will simply be noted in the audit working papers.

Adjustments in the fourth category, if the misallocation of funds also constitutes a violation of law which warrants a non-compliance citation, will be reflected *either* in the GAGAS report (and include a finding for adjustment statement), if significant or sensitive, *or* in the management letter (and exclude a finding for adjustment statement) if of lesser significance or sensitivity. Judgment is necessary to determine the proper placement of adjustments that fall into this category. Some factors to consider in judging this are whether an individual fund will be significantly misstated if the adjustment is not made, if there is a heightened public awareness of a transaction, and if the dollar amount is large in an absolute sense, rather than relative to some other measurement of financial position or results of operations.

The matrix on the following page summarizes our reporting for findings for adjustment.

Summary of Finding For Adjustment Reporting Treatment

	<i>Material adjustments with which the auditee agrees, which have been posted to the accounting records and which are reflected in the audited financial statements:</i>	<i>Material adjustments with which the auditee disagrees and which are neither posted to the accounting records nor reflected in the financial statements:</i>	<i>Immaterial adjustments which are more than clearly inconsequential (< material & > \$100):</i>	<i>Clearly inconsequential adjustments (≤ \$100):</i>
GAGAS Report	If based on a violation of legal authority, noncompliance citation reported in the GAGAS report.	If based on a violation of legal authority, noncompliance citation reported in the GAGAS report. <u>AOS staff should include a finding for adjustment statement. IPAs should not include a finding for adjustment statement.</u>	If the misallocation of funds also constitutes a violation of law which warrants a non-compliance citation, a citation will be reflected in the GAGAS report if the matter is <u>significant or sensitive.</u>	Not reported in the GAGAS report.
Auditor’s report (opinion) on the financial statements	No qualification of the auditor’s opinion.	Adjustments which are based on a violation of legal authority will result in an additional, qualification, paragraph in the auditor’s report on the financial statements.	No effect on the auditor’s report.	No effect on the auditor’s report. Adjustments will be noted in the audit working papers.
Management letter	Not applicable	Not applicable	If the misallocation of funds also constitutes a violation of law which warrants a non-compliance citation, a citation will be reflected in the management letter if the matter is of <u>lesser significance or sensitivity.</u>	Not applicable

Financial Statement Opinion Qualification Paragraph

During 20XX, Any Local School District expended \$584,000 from the Bond Retirement Fund to pay employees' salaries. Section 5705.10 of the Revised Code restricts the use of the Bond Retirement Fund to debt retirement. Had this amount been properly expended from the General Fund, the effect would have been to increase the cash balance and decrease disbursements of the Bond Retirement Fund by \$584,000 to \$631,675 and to decrease the cash balance and increase disbursements of the General Fund by \$584,000 to a deficit of \$347,000 as of and for the year ended December 31, 20XX.

In our opinion, except for the matter referred to in the preceding paragraph, the financial statements present fairly . . .

Such a paragraph will result in either a qualified ("except for") or adverse opinion. A government can avoid a qualified or adverse opinion only if they agree to adjust their accounting records. A mere commitment by the public office to adjust is insufficient. Auditor of State staff should document that the client posted the adjustment in accordance with AOSAM § 37700.27.

A deviation from this paragraph may arise if the AOS refers the disagreement to a third party for resolution. For example:

Any Local has distributed income tax receipts to various funds, in accordance with Any Local Ordinance 98-77, which, in the opinion of Any Local's counsel, is proper. The Auditor of State, however, is of the opinion that these receipts should have been distributed in accordance with Any Local Ordinance 99-09. If the Auditor's opinion is found to be correct, the effect would be to reduce the General Fund cash balance and receipts as reflected on the accompanying Exhibit A-2 by \$55,291 and to increase the Special Revenue Fund cash balance and receipts as of and for the year ending December 31, 20XX by a corresponding amount. An opinion is currently being sought from the Attorney General of the State of Ohio⁶ concerning the proper allocation Any Local should use. As of the date of this report, however, the Attorney General has not rendered an opinion.

In our opinion, except for the adjustments, if any, that might have resulted from the matter referred to in the preceding paragraph, the financial statements present fairly. . .

⁶ Auditors cannot include a paragraph indicating that an Attorney General's opinion will be or is being sought unless the Legal Division of the Auditor's Office has concurred with the need for an opinion request, or unless this request has already been submitted.

Findings for Adjustment Procedures for Independent Public Accountants (IPA)

IPAs should follow the preceding guidance regarding Findings for Adjustment with the following exceptions.

IPAs should report a noncompliance finding for material matters they deem to require adjustment. However, these findings should not include the “finding for adjustment statement” (i.e. “In accordance with the foregoing facts, we hereby issue a finding for adjustment . . .”). When the IPA believes a Finding for Adjustment condition exists and the client does not agree with and does not make the adjustment, the following procedures apply.

- As soon as the IPA has an indication there could be Findings for Adjustment, the IPA should contact the regional chief auditor.
- The IPA should provide the regional chief auditor with all relevant supporting documentation for the Finding.
- After notifying the Chief Auditor of Quality Assurance that a finding for adjustment may be issued, the regional chief auditor or his designee will prepare a preliminary Finding, and submit it to the Auditor of State Legal Division for review. Included will be any needed supporting documentation.
- The Legal Division will review the proposed Finding and may ask the chief auditor or the IPA for any needed additional information.
- After the Legal Division has approved the Finding, the chief auditor or his designee will send the proposed Finding for Adjustment to all applicable parties. These parties normally have five days to respond. If there is a response, the chief auditor evaluates the response and decides whether the Finding should be withdrawn or modified.
- The regional chief auditor must send a copy of the approved finding to the Chief Auditor, Quality Assurance or his designee for inclusion with the Acceptance Letter. The Chief Auditor, Quality Assurance or his designee certifies the report with the Clerk of the Bureau.
- The Auditor of State will describe material, unadjusted Findings for Adjustment in the Acceptance Letter we include in the front of each report.

Findings for Recovery

Ohio Rev. Code Section 117.28 authorizes the Auditor of State to report a *finding for recovery* in audit reports when legal action may be appropriate to recover public money or property.

Ohio Rev. Code Section 117.01 (C) defines *public money* as "any money received, collected by, or due a public official under color of office, as well as any money collected by any individual on behalf of a public office or as a purported representative or agent of a public office."

Under Ohio Rev. Code Sections 9.24(H)(3) and 117.28, a finding for recovery may exist under the following circumstances:

- Where public money has been illegally expended;
- Where public money that has been collected has not been accounted for;
- Where public money that is due has not been collected; and
- Where public property has been converted or misappropriated.

Each of these is discussed below.

1. Illegal Expenditure

A finding for recovery for an illegal expenditure may be made only where the auditor (after consultation and advice from the Legal Division) has concluded that the public office does not possess the legal authority for the expenditure in question. This generally may occur where the government either has no statutory authority (or the authority they possess was exceeded) for the expenditure or there is no public purpose for the expenditure.

Governmental units other than municipal corporations generally possess only the authority expressly granted by statute or necessarily implied to carry out an express statutory function. Thus, a governmental entity such as a county or township may act only where a statutory grant of authority exists and, if any doubt as to the authority exists, it must be resolved against the expenditure of public monies. If the basis for a finding for recovery is that the governing body exceeded its statutory authority, a citation to a court decision containing a general description of the limited authority of the governmental unit is sufficient.

Proper Public Purpose

Governmental entities, without regard to their specific nature, may not make expenditures of public monies unless they are for a proper (i.e. valid) public purpose.

State ex rel. McClure v. Hagerman, 155 Ohio St. 320, provides that governmental expenditures should serve a public purpose. In McClure, the Ohio Supreme Court offered the following guidelines to determine a public purpose:

1. Whether the expenditure is for or promotes the public health, safety, morals or general welfare;

2. Whether the primary objective is to promote a public purpose, although it may incidentally advance a private interest;
3. If there has been a prospective legislative determination of a proper public purpose.

See AOS Bulletins 2003-005 and 2004-002 for further guidance regarding *proper public purpose*.

The courts will not substitute their judgment for that of the authorities unless the latter's exercise of judgment or discretion is shown to have been unquestionably abused.

In general, if the principal benefit is for the public, an expenditure is not invalidated merely because an incidental benefit is derived by a private party. The determination by a public office's governing body that a contemplated expenditure serves a valid public purpose is generally not subject to question unless this determination is "palpable and manifestly arbitrary and incorrect." (However, disbursing public money for alcohol will result in a finding for recovery.)

Before the discretionary determination of the governing body that a given expenditure serves a public purpose may be overruled, the auditor must consult with the Legal Division and have a citation referring to a specific prohibition against the class of expenditure in question or must have facts to support a conclusion that the local determination was "palpable and manifestly arbitrary and incorrect."

While auditing expenditures, the auditor should scan or perform other analytical procedures looking for unusual or nonrecurring items and determine the reasonableness of designations of public purpose. Any questionable items can be discussed with the appropriate regional chief auditor, who should consult with the Legal Division.

2. Collected but Unaccounted For

A finding for recovery for public money collected but unaccounted for, should be made where the auditor, after consultation with and advice from the Legal Division, concludes that public money, as defined in Ohio Rev. Code Section 117.01, has been received by the public office, but cannot be adequately accounted for by authorized disbursements of public moneys. A mere unidentified shortage of public moneys is a sufficient basis for a finding for recovery, as public officials are strictly liable without fault to account for public funds entrusted to their care.

3. Due but Not Collected

Public money that is due a public office but which has not yet been collected may also be subject to a finding for recovery. Money may become due the public office by operation of statute, by contract, or by court order. The decision as to whether a particular obligation is sufficiently overdue to justify the issuance of a finding for recovery requires judgment based upon the facts of an individual audit. Auditors should consult with and seek advice from the Legal Division. In general, amounts are to be considered overdue and a proper subject for a finding for recovery if they have been outstanding in excess of one year and are not the subject of either a statutory collection process or ongoing collection efforts by the client.

Findings for recovery for public money due but not collected are normally identified in the audit of the public office to which the moneys are due. In some circumstances, however, the information necessary to identify the obligation is available only in the records of the obligor. Where such circumstances exist, a finding for recovery is issued in the audit report of the obligor and in favor of the obligee. For example, if a village is not collecting statutory fees for remittance to the State, a finding for recovery for the amounts in question should be issued against the village and in favor of the State in the village's audit report.

The citation justifying the findings for recovery for public money due but not collected should include not only statutes, regulations, or Attorney General Opinions, but also the document evidencing the underlying obligation.

4. Public Property Converted or Misappropriated

A finding for recovery for public property converted or misappropriated should be issued only if the auditor has substantial evidence that a theft has occurred. This would include the ability to identify the individual responsible for the loss. Before any finding for recovery of this type can be issued, it is essential that the advice of legal counsel be obtained. If such circumstances arise during an audit, the matter should be directed to legal counsel for resolution.

In most instances, the auditor can only demonstrate that certain property was acquired by the client, and at the time of the audit it cannot be located. Under such circumstances, a finding for recovery may not be appropriate. A non-compliance citation should be issued instead, citing Ohio Rev. Code Section 117.28, stating the relevant facts, and indicating that the property may have been converted or misappropriated.

NOTE: Generally, no contract (generally, an acquisition subject to Ohio Revised Code competitive bidding requirements) may be awarded to a person or entity against whom a finding for recovery has been made if this finding is unresolved (Ohio Rev. Code Section 9.24 (A)). Ohio Rev. Code Section 9.24 (D) requires the Auditor of State to maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The Auditor of State currently has this database operational and updates the database periodically in accordance with Ohio Rev. Code Section 9.24 (D). AOS Bulletins 2003-009 and 2004-006 provide further guidance regarding this law.

Other Policies Concerning Findings for Recovery Audits Performed by the Auditor of State

If the auditor preliminarily determines a finding for recovery should be issued, the auditor should draft the proposed finding and send it, along with all factual information pertinent to the proposed finding, to the Legal Division and to Accounting & Auditing Support for review. The Legal Division reviews the proposed finding and sends it back to the auditor with a “Legal Division Cover Sheet” attached, stating that the proposed finding is approved as is, is approved as modified, is disapproved, or that more information is needed to evaluate the proposed finding. Accounting & Auditing Support will also send an approval.

If the Legal Division and Accounting & Auditing Support approve the proposed finding, the auditor should immediately prepare and send a “Notice of Proposed Finding for Recovery” to the Legal Division for review (a sample is provided on the second following page). This notice provides the person against whom the finding is contemplated an opportunity to rebut the allegations. The notice must include the language of the finding for recovery from the report and must be factually specific and detailed enough to allow the persons to understand the allegations made against them.

The notice also must state that the individual has five business days in which to respond in writing to the proposed finding. That five-day period may be extended in rare circumstances, but only upon approval of the Auditor of State, the Chief Deputy Auditor, the chief auditor (or equivalent), or Legal Counsel. The notice should be sent to the individual sufficiently in advance of any post-audit or exit conference so that he or she has time to respond and so that the Auditor of State’s Office has time to withdraw or modify the finding before that conference, if necessary.

If the person against whom the finding is contemplated responds within the time allowed with something other than a general denial of responsibility, the auditor should evaluate the response. If after the evaluation, the decision is made to delete the proposed finding from the draft report, the person should be notified of that decision. If the decision is made to retain the finding, the individual should be notified of the opportunity to attend the exit conference or to schedule a separate meeting to discuss the finding.

Post-Audit Conference Procedures

After the individual’s response to the notice is evaluated and a decision is made to delete it, retain or modify the finding, the post-audit conference or exit conference may be held. Under Ohio Rev. Code § 121.22(D), conferences between auditors and the audited public office are an exception to the “Sunshine Law” requiring meetings of public officials to be in public. In addition, under Ohio Rev. Code § 117.26, reports this Office prepares are not public records until certified copies of them are served upon certain officials of the public office. To comply with those two confidentiality provisions, this Office has traditionally held that the auditors conducting the post-audit conference have some discretion as to who may attend it. For example, auditors would have discretion not to conduct a post-audit conference if one of the public officials present invited the media to the conference.

If the person against whom the finding is contemplated is a public official or employee who would normally attend a post-audit conference (for example, the public office's chief financial officer, the chief executive officer, or the governing board or commission), a proposed finding may be discussed during the conference. If the person is an official or employee who would not ordinarily be present at a post-audit conference or the person is not an official or an employee of the public body, a separate meeting may be scheduled to discuss the proposed finding. In either situation, the person against whom the finding is contemplated may have legal counsel present. If so, the auditor may request that a lawyer from the Legal Division attend as well. In this meeting, the person against whom the finding is contemplated and/or his legal counsel may inspect (but not copy) the audit documentation related to the finding at issue.

The letter scheduling the post-audit conference should state the public body will have five business days after the conclusion of the conference to respond to the draft report presented. This period may also be extended upon approval of the Auditor of State, the Chief Deputy Auditor, the chief auditor (or equivalent), or the Auditor of State's Legal Division. If the public body's response after the post-audit conference contains any information questioning the validity or the amount of the proposed finding for recovery, the auditor, in consultation with the Legal Division, should evaluate the response and determine whether the finding should be maintained, deleted, or modified.

Notice of Finding for Recovery

When the Clerk of the Bureau certifies an audit report for release, the regional office shall send separate copies of the approved "Notice of Finding" (a sample is provided on the second following page) to each individual named in the Finding for Recovery ⁷ and the bonding company(ies).

An example of the *Notice of Finding* and the *Notice of Proposed Finding* follow. Note they are the same, except the title and the language changes to reflect whether the Finding for Recovery is proposed or issued.

⁷ IPA's follow different procedures. See the *Finding for Recovery Procedures for Independent Public Accountants (IPA)* discussion later in the Introduction.

Sample NOTICE OF (PROPOSED)⁸ FINDING

DATE

To: NAME
STREET ADDRESS
CITY, Etc.

The Auditor of State **[is auditing]** [has audited] Washington Township, Sandusky County for the period January 1, 2004 through December 31, 2005.

A “Finding for Recovery” **[may be]** **[has been]** issued against you. Issuance of a Finding for Recovery constitutes a preliminary determination by the Auditor of State, in accordance with Ohio Revised Code Section 117.28, that you may be liable to a public office for **SELECT ONLY THE APPLICABLE CATEGORIES>>>** public monies illegally expended; collected but unaccounted for; due but not collected; for public property which has been converted or misappropriated. It does not constitute a final determination that such legal liability exists and is not an accusation of criminal misconduct. The **[proposed]** Finding for Recovery **would / will** be issued against you **INSERT ANY OTHER RESPONSIBLE PARTIES, SUCH AS>>** [and your bonding company and/or NAME OF OTHER RESPONSIBLE PERSON, jointly and severally,] and **would / will** be in the amount of \$762.67, and in favor of _____.

We are **proposing / issuing** this Finding for Recovery for the following reason:

The Township Trustees approved NAME’s salary at \$XX.XX beginning [DATE] (\$XX.XX [PREVIOUS SALARY AND EFFECTIVE DATE]). Overtime pay at time and a half would be \$XX.XX for 200X (\$XX.XX for hours worked during the first pay of 200X at the 200X-1 rate). For the payroll checks issued 1/13/0X, 1/28/0X, 2/11/0X, 2/25/0X, 3/10/0X, 3/25/0X, and 5/27/0X Mr. NAME was paid \$XX.XX for overtime wages. Review of time sheets and payroll records indicated XX hours of overtime worked in 200X (XX hours in 200X-1). As a result, an overpayment of \$XX.XX occurred.

<u>Description</u>		<u>Rate</u>		<u>Total</u>
XX hours of overtime	x	\$X.XX per hour	=	\$ XX.XX
XX hours of overtime	x	\$X.XX per hour	=	XX.XX
				\$XX.XX
XX total hours of overtime paid	x	\$X.XX per hour	=	\$XX.XX
Overpayment				\$ X.XXX

In accordance with the foregoing facts and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public monies illegally expended **may be / is** hereby issued against NAME in the amount of \$XXX.XX, and in favor of NAME OF GOVERNMENT NAME OF Fund, in the amount of \$XXX.XX.

⁸ This example is both for proposed and approved findings for recovery. The red font language applies to **proposed** notices of findings. However, do not use red font in the letter you issue!

Notice of Proposed Findings
July 14, 2005
Page 2

[If a Finding for Recovery were to be issued, the] [The] Auditor of State **[would be]** [is] required, under Ohio Revised Code section 117.28, to forward a copy of the audit report containing this Finding For Recovery to the statutorily designated legal counsel for the public office, who then has the discretionary authority to institute legal proceedings to collect the amount alleged to be due the public office. Under certain circumstances such action might also be instituted by the Attorney General of the State of Ohio.

DELETE THIS PARAGRAPH FROM NOTICES SENT TO BONDING COMPANIES>> In addition, pursuant to Ohio Revised Code section 9.24, a person against whom an unresolved finding for recovery has been issued by the Auditor of State is precluded from receiving, from a state agency or political subdivision, a contract for goods, services, or construction, paid for in whole or in part with state funds. (This preclusion does not apply to employment contracts.)

This “Notice of Proposed Finding for Recovery” has been prepared to permit you to submit any relevant information to this office for consideration. Please submit such information, as well as any questions concerning this Proposed Finding for Recovery, within five business days of receiving this Notice, to the Auditor of State at the following address:

**GOOD GUY, CPA
Senior Audit Manager
AOS OFFICE ADDRESS**

If you wish to review the working papers on which the Proposed Finding is based, please contact me immediately to schedule an appointment. Reviewing the working papers, however, will not result in an extension of the time in which to respond.

Very truly yours,

BETTY D. MONTGOMERY
Auditor of State

Additional Considerations

- Where a proposed finding for recovery has been paid in whole or in part prior to the completion of the audit, the audit report should disclose the repayment as a “Finding for Recovery Repaid Under Audit.”
- The Auditor of State does issue Findings for Recovery where the amounts in question aggregate \$100 or less. However, auditors should discuss the matter in the management letter. Amounts aggregating more than \$100 are to be reported in the GAGAS report.
- If a government identifies a finding for recovery *before* the auditors do and the entity or individual repays the money before the audit report is issued, the auditor should not report the matter as a Finding for Recovery. However, the auditor should evaluate the issue for other possible matters of audit interest, such as the possibility of fraud or reportable internal control weaknesses. Also, the matter might be a citation for an illegal expenditure of money or other violation of law. Conversely, the entity’s identification and resolution of the matter may indicate the internal control structure is properly detecting and correcting errors, in which case the auditor might determine not to report the matter.
- The auditor should determine the amount of a finding for recovery during audit field work. The method used to calculate the amount must be clearly set forth in the working papers. Any partial payment or reimbursement made prior to completing the audit should be noted in the audit report with appropriate credit given when calculating the amount.
- If a finding for recovery is issued because public property has been converted or misappropriated, the amount of the finding should reflect the fair market value of the property at the time that it was discovered to be missing. The basis for determining this amount must be disclosed in the working papers.
- Where the amount of the finding for recovery may change prior to or after the release of the audit report, the auditor should date the amount. Example: "As of December 31, 20XX, this amount is \$X,XXX." In these instances, the method of calculating the amount should be stated in the audit report so that the amount can be calculated on the day of repayment.

Finding for Recovery Procedures for Independent Public Accountants (IPA)

Ohio Rev. Code 117.12 prohibits IPAs from issuing Findings for Recovery. One result of this is that IPAs may not include the following statement in their noncompliance findings: “In accordance with the forgoing facts, and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public money collected but not accounted for (or illegally expended, etc.) is hereby issued against” However, under GAGAS, if the amount is significant, the IPA should report a noncompliance finding without the “statement.”

The following procedures apply to IPA’s in instances where they determine a finding for recovery may be necessary.

- An IPA should NOT inform anyone other than the Auditor of State of possible Findings for Recovery either orally or in writing.
- As soon as the IPA has an indication there could be Findings for Recovery, the IPA should contact the regional chief auditor.
- The IPA should provide the regional chief auditor, with all relevant supporting audit documentation for the Finding.
- After notifying the Chief Auditor of Quality Assurance that a finding for recovery may be issued, the regional chief auditor or his designee will prepare a preliminary Finding, and submit it to the Auditor of State Legal Division for review. Included will be any needed supporting documentation and the Notice of Proposed Findings letters.
- The Legal Division will review the proposed Finding and may ask the regional chief auditor or the IPA for additional information.
- After the Legal Division has approved the Finding, the regional chief auditor or his designee will obtain the limited waiver from the IPA⁹ and send the Notice of Proposed Finding to all applicable parties. The applicable parties are normally given five days to respond. If they respond, the chief auditor evaluates the response along with the Legal Division and decides whether to withdraw or modify the Finding.
- The regional chief auditor will send a copy of the approved finding to the Chief Auditor, Quality Assurance or his designee for inclusion with the Acceptance Letter and send the Notice of Finding to the applicable parties upon release of the report.

⁹ NOTE: ORC 4701.19 provides that an IPA’s audit documentation remains the property of the IPA, even in the possession of the Auditor of State’s office, and states that these materials are not public records available for public disclosure. However, we will request a limited waiver of this statutory provision after the AOS Legal Department has approved the proposed finding for recovery. This limited waiver will request the IPA to make audit documentation supporting the proposed finding for recovery available for inspection by the person named in the finding and legal counsel. This waiver will include only documentation directly related to the finding for recovery. Documents subject to the waiver will also become subject to public records disclosure.

IPAs should refer any matters involving possible criminal activities to the regional chief auditor and to the Chief of the Auditor of State’s Special Investigations Unit, who is a law enforcement officer.

In addition, independent public accountants are to make an immediate, written report of all illegal acts or indication of illegal acts which may result in findings for recovery of which they become aware to the regional chief auditor.

Example Findings for Recovery

An example of a routine finding for recovery is included below:

Receipts issued for impounding fees by the County Dog Pound and Dog Warden totaled \$1,234 more than deposits made to the County Auditor. Ohio Rev Code Section 9.39 states all “public officials are liable for all public money received or collected by them or by their subordinates under color of office.”

In accordance with the forgoing facts, and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public money collected but not accounted for is hereby issued against John Doe, County Dog Warden, and the Ace Insurance Company, his bonding company, jointly and severally, for \$1,234 and in favor of the County Dog and Kennel Fund.

(Note: Per the preceding discussion, IPAs would modify this finding by deleting the second paragraph and instead stating, for example, “We have referred this matter to the Auditor of State for resolution.”

Public officials are strictly liable to account for public funds entrusted to their care. “Strict liability” means a person may be found liable for the loss even though he or she may not have been personally at fault. Also, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is made is strictly liable for the amount of such expenditure. Mere unidentified shortages of public moneys, or such an illegal expenditure, are sufficient reasons for a Finding for Recovery against such a public official.

However, the form of reporting such a Finding should be modified accordingly. An example follows:

Joe’s Service Business, Inc. improperly submitted invoices for, and had expenditures paid on its behalf, of \$125,000 in excess of the amounts authorized by the City.

In accordance with the forgoing facts, and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public money illegally expended is hereby issued against Joe’s Service Business, Inc., Joe Smith, and Frank Jones, jointly and severally, and in favor of the City of Anyplace, in the amount of \$125,000.

Fifteen thousand dollars of the net expenditures of \$125,000 illegally paid to, or on behalf of, Joe’s Service Business occurred when Jim Smith was the City Finance Director, and \$110,000 of these net illegal expenditures occurred when Bill Wilson was the City Finance Director.

Under Ohio law, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is made is strictly liable for the amount of the expenditure. Seward v. National Surety Corp., 120 Ohio St. 47 (1929); 1980 Op. Atty Gen. No. 80-074; Ohio Rev. Code Section 9.39; State, ex.rel. Village of Linndale v. Masten, 18 Ohio St. 3d 228 (1985). Public officials controlling public funds or property are secondarily liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated,

lost or stolen. Public officials will be liable if and to the extent that recovery or restitution is not obtained from the persons who unlawfully obtained such funds or property, 1980 Op. Atty Gen. No. 80-074.

Accordingly, a Finding for Recovery is hereby issued against Jim Smith, former City Finance Director, and Ace Insurance Corp., jointly and severally, in the amount of \$15,000 and in favor of the City of Anyplace, and a Finding for Recovery is hereby issued against Bill Wilson, City Finance Director, and Ace Insurance Corp., jointly and severally, in the amount of \$110,000 and in favor of the City of Anyplace. Jim Smith and Bill Wilson shall be secondarily liable for such illegal expenditures to the extent that recovery or restitution is not obtained from Joe's Service Business, Inc.

Referring Audit Reports

When an audit report contains a non-compliance citation which falls under the jurisdiction of a particular state agency, it often is desirable to refer a copy of the released audit report to the agency. Reports may also be referred to the Attorney General under the authority of Ohio Rev. Code Section 117.42, which empowers the Attorney General, at the request of the Auditor of State, to undertake appropriate action to secure compliance with the laws by a public office.

Referring Findings for Recovery to the Attorney General

Ohio Rev. Code Section 117.28 requires the Auditor of State to notify the Attorney General of Findings for Recovery, whether or not repaid before the audit report's release. Field auditors and IPAs who prepare reports containing Findings for Recovery should prepare a letter, substantially in the following form, for the Auditor of State to sign upon release of the reports:

[Date]
<p>The Honorable Jim Petro Attorney General of the State of Ohio 30 E. Broad St. Columbus, OH, 43266-0410</p>
<p>Re: Findings for Recovery in an Audit Report</p>
<p>Dear Attorney General Petro:</p>
<p>Attached is a copy of the audit report of [entity] for the year ended [date]. Certified copies of the audit report were filed with the public officials listed in Ohio Revised Code Section 117.26. Pursuant to Ohio Revised Code Section 117.28, you are being provided with a copy of this audit report because it contains a Finding for Recovery. In addition, a certified copy of the report has been sent to [entity]'s legal counsel as required by Ohio Revised Code sections 117.27 and 117.28.</p>
<p>If you have any questions, or if you need further information, please contact the Auditor of State's Legal Division at 752-8683.</p>
<p>Very truly yours,</p>
<p>Betty Montgomery Auditor of State</p>

Referrals to the Attorney General, involving matters other than Findings for Recovery, will be limited to situations involving gross malfeasance, repeated serious material budgetary violations, or any unusual non-compliance items that warrant legal action, and may only be done by the Legal Division.

Referrals to the Ethics Commission, Other State Agencies, and the IRS

GAGAS requires that auditors report illegal acts that have either occurred or are likely to have occurred unless they are clearly inconsequential. All such violations or potential violations that are considered to be consequential should be included in the report on compliance with laws and regulations. Illegal acts that are not material but are considered of consequence normally would be reported in the management letter. Illegal acts that are inconsequential could be reported in the management letter or could be brought to management's attention orally.

Ethics Commission Referrals

All potential "consequential" ethics law violations are to be submitted to the Auditor of State Legal Division. After review, the Auditor of State Legal Division will make appropriate referrals. The audit division should consult with the Legal Division in determining how or if to report this matter.

Referrals to Other Agencies

When referring an audit report to any other State or Federal agency, the regional audit office will prepare a letter to be sent with the report when it is submitted to the Clerk of the Bureau for release. The Regional office will also notify the Auditor of State's Legal Division. The regional office should retain a copy of the cover letter.

IRS and PERS Comments

The Internal Revenue Service and the Public Employees Retirement System have both requested that we notify them when AOS issues reports (in the case of the IRS, also management letters) containing comments or findings pertaining to their respective agencies. The Auditor of State has agreed to these requests. The Accounting & Auditing Support division will notify these agencies based upon being informed by either Auditor of State regional auditors or the Quality Assurance division that such reports (or management letters) exist.

Questions and Comments

The Auditor of State welcomes comments and suggestions on the *Ohio Compliance Supplement*. Please direct them to:

Betty Montgomery
Auditor of State
Frederick Kruse, Assistant Chief Auditor
Accounting and Auditing Support
88 E. Broad St., Columbus, OH 43215
Internet address: frkruse@auditor.state.oh.us

CHAPTER 1

BUDGETARY AND CERTAIN RELATED REQUIREMENTS

The Ohio Constitution provides certain local governments the power to tax. The budgetary process is a plan to coordinate expenditures and resources. The State Legislature has adopted laws to **control** expenditures using tax budgets and appropriations.

The Auditor of State believes budgeting, properly used, provides the most important monitoring control a government has. *It is impossible to incur a cash deficit if a government complies with the budgetary law!* Additionally, the budget is an instrument of public policy: A governing board expresses its desires for using a government's limited resources through its appropriations.

Appendix C to the *Ohio Compliance Supplement* includes Ohio Rev. Code 5705 (i.e., the budget law) definitions of "subdivision," "taxing authority," and "taxing unit." You should refer to these definitions from Ohio Rev. Code Section 5705.01, to determine the applicability of Chapter 1 requirements to the entity you are auditing. Appendix F includes matrices showing the applicability of this chapter's requirements to various governmental types.

If you find no budgetary noncompliance at year end, you should also test for budgetary overexpenditures or appropriations exceeding estimated resources prior to year end, since we consistently find some governments permitting violations to occur during the year and correcting these violations only at year end. However, if you find noncompliance at year end, you need *not* test for prior periods, since we already know noncompliance occurred.

Legal Level of Budgetary Control

Government Accounting, Auditing, and Financial Reporting defines the "legal level of budgetary control" as "the level at which spending in excess of budgeted amounts would be a violation of law." In Ohio, the legal level of control is the level at which the local government's legislative authority passes the appropriation measure.

Ohio Rev. Code 5705.38(C) requires the following minimum level of budgetary control for "subdivisions" other than schools: "Appropriation measures shall be classified so as to set forth separately the amounts appropriated for each office, department, and division, and, within each, the amount appropriated for personal services."

Ohio Administrative Code 117-6-02 requires schools to appropriate at least at the fund level. Governments may adopt more stringent legal levels of budgetary control if they wish.

Since Ohio Admin. Code 117-2-02(C)(1) permits governments to adopt more stringent legal levels of control than the aforementioned laws require, it is possible for the level to vary from entity to entity, or even from fund to fund within an entity. However, once established by the local government, the legal level of control should be the same throughout the fiscal year. As such, this is the level auditors should use to test compliance.

Governments following generally accepted accounting principles or an Other Comprehensive Basis of Accounting (OCBOA) must comply with the following budgetary presentation requirements from GASB Codification 2400.103 -- .105:

.103 Governments may present the budgetary comparison schedule using the same format, terminology, and classifications as the budget document, or using the format, terminology, and classifications in a statement of revenues, expenditures, and changes in fund balances. Regardless of the format used, the schedule should be accompanied by information (either in a separate schedule or in notes to RSI) that reconciles budgetary information to GAAP information, as discussed in this section and in Section 1700. Notes to RSI should disclose the budgetary basis of accounting and excesses of expenditures over appropriations in individual funds presented in the budgetary comparison, as discussed in Section 2300, "Notes to Financial Statements," paragraph .106.5 [NCGAI 6, ¶5; GASBS 34, ¶131; GASBS 37, ¶19]

.104 Where financial statements prepared in conformity with GAAP do not demonstrate finance-related legal and contractual compliance, the governmental unit should present such additional schedules and narrative explanations in the comprehensive annual financial report as may be necessary to report its legal compliance responsibilities and accountabilities. In extreme cases, preparation of a separate legal-basis special report may be necessary. [NCGAS 1, ¶12]
Comprehensive Annual Financial Reports

.105 The comprehensive annual financial report (CAFR) should include budgetary comparison schedules for individual nonmajor special revenue funds and other governmental funds of the primary government (including its blended component units). [NCGAS 1, ¶139 and ¶155, as amended by GASBS 14 and GASBS 34, ¶130]

There is no prescribed minimum for reporting budget-versus-actual information for governments using the Auditor of State's cash-basis financial reports. These reports routinely present this information at an aggregated level as footnote disclosures. However, auditors should still test legal compliance at the legal level of budgetary control. Auditor of State Bulletin 97-010 provides useful guidance and examples to help understand budgetary requirements.¹

Other sources of Guidance: In addition to this OCS Chapter, Section D.IV of the AOS' *Ohio Township Handbook* and Chapter 3 of the AOS' *Village Officer's Handbook* include many questions and answers related to RC 5705 requirements. You can access these publications at www.auditor.state.oh.us then click on *Publications* and *Local Government Manuals and Handbooks*.

¹ As of the date of this OCS edition, Bulletin 97-10 still provides useful guidance in understanding certain budgetary issues. However, a few specific legal requirements have changed. You should refer to the latest ORC for updated requirements. Some of the changes since the AOS issued 97-10 are: (1) The legal sources for the level of budgetary control; (2) changes in the dollar limitations on amounts requiring fiscal officer certification; (3) changes in certain blanket certification requirements; (4) the *Budgeted Revenue and Expenditure* section now applies to all "subdivisions."

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Section A: General Budgetary Requirement

1-1 Compliance Requirement: Ohio Rev. Code Section 5705.28 - Adoption of tax budget.

Summary of Requirement: On or before July 15 (January 15 for school districts), in each year, the taxing authority of each subdivision or other taxing unit must adopt a tax budget for the succeeding fiscal year.

Before June 1 in each year, the board of trustees of a school district library entitled to participate in appropriations or revenue of a school district, or having a tax proposed by the board of education of a school district, is to adopt a tax budget for the ensuing fiscal year and file such budget with the board of education. On or before July 15, a board of education receiving such a tax budget is to adopt such a tax budget on behalf of the library district.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
Read the minutes and determine if a tax budget was adopted on or before the required date.		
Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

1-2 Compliance Requirement: Ohio Revised Code Sections 5705.281 - The county budget commission may waive the requirement requiring subdivisions to submit tax budgets.²

Summary of Requirements: The county budget commission, by an affirmative vote of a majority of the commission including an affirmative vote by the county auditor, may waive the requirement that the taxing authority of a subdivision adopt and submit a tax budget. The budget commission shall require such a taxing authority to provide such information as may be required by the commission to perform its duties under chapter 5705, including dividing the rates of each of the subdivision's or taxing unit's tax levies as provided under section 5705.04 of the Revised Code.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		

² Note: Senate Bill 55, effective January 8, 2004, extended these waivers to libraries. See the new OCS step for 5705.281 in the *Additional Public Library Requirements* in Section C of this Chapter.

Suggested Audit Procedures - Compliance (Substantive) Tests

Inspect documentation from the County Budget Commission that waives the subdivisions requirement to file a tax budget.

If the tax budget was waived:

1. Obtain a copy of the budget commission's correspondence notifying the subdivision of the waiver. Document the submission requirements specified in the communication.
2. Through inspection of documents, reviews of minutes, or other such procedures, determine whether any significant substitute requirements were met.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

<p>1-3 Compliance Requirement: Ohio Rev. Code Section 5705.34 - Certifying tax levies.</p> <p>Summary of Requirement: Each taxing authority is to pass an ordinance or resolution to authorize the necessary tax levies. Each such authority is to certify the levies to the county auditor before October 1st (April 1 for school districts), unless a later date is approved by the tax commissioner.</p> <p>If the government is a Township Board of Park Commissioners that is appointed by the Board of Township Trustees and oversees a Township Park District that contains only unincorporated territory, see Division (C) of Ohio Rev. Code Section 511.27.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Read the minutes to determine if the taxing authority has authorized the necessary rates and certified them to the county auditor on or before the required date.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

1-4 Compliance Requirement: Ohio Rev. Code Section 5705.36 - Certification of available revenue.

Summary of Requirement: On or about the first day of each fiscal year, the fiscal officers of subdivisions and other taxing units are to certify to the county auditor the total amount from all sources available for expenditures from each fund in the tax budget along with any unencumbered balances existing at the end of the preceding year.

Except, a taxing authority shall exclude the following from unencumbered fund balances:

- Budget stabilization reserves [§ 5705.13, 5705.29(G)]
- Nonexpendable trust principal balances and any additions to principal not from the fund’s reinvested earnings [§ 5705.131]

The certification for a school district must separately show the amount of any notes and unpaid outstanding expenses that were due prior to June 30 which are to be paid from advancements of property tax settlement money.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Accounting system capable of recording estimates and comparing them to actual results. • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Comparisons or Reconciliations of Certified Amounts with Government's Books/Records • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>Inspect the copy of the certificate retained by the subdivision showing the total amount from all sources which is available for expenditures and the balances existing at the end of the preceding year.</p> <p>Through inquiry, knowledge of the client, and review of documents (such as the record of minutes and accounting ledgers), determine whether the client has established any of the reserve balance accounts, or nonexpendable trust funds described.</p> <p>If reserve balance accounts or nonexpendable trust funds have been established, calculate or inspect the client's or budget commission's calculations that the certification excludes balances in those accounts/funds.</p> <p>For school districts, calculate or inspect the client's or budget commission's calculations that the certification includes any spending reserve available for appropriation during the current fiscal year.</p> <p>For school district receiving an advance on the August property tax settlement, determine through inquiry, inspection of ledgers, vouching, or other such means, whether significant payments were made on notes or outstanding expenses which were due prior to June 30 (since some districts routinely request advances to take advantage of short-term investment opportunities, you should consider whether these payments could have been made in the absence of the advance, without placing undue distress on the district).</p> <p>If such notes or outstanding expenses have been identified, compare the amounts to the amounts separately identified on the district's copy of the certificate.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

<p>1-5 Compliance Requirement: Ohio Rev. Code Section 5705.36 - Amended Certificates</p> <p>Summary of Requirements: 5705.36(A)(2) allows all subdivisions to request increased amended certificates of estimated resources and reduced amended certificates upon determination by the fiscal officer that revenue to be collected will be greater or less than the amount in the official certificate of estimated resources.</p> <p>5705.36(A)(3) requires obtaining an increased amended certificate from the budget commission if the legislative authority intends to appropriate and expend excess revenue. 5705.36(A)(4) requires obtaining a reduced amended certificate if the amount of the deficiency will reduce available resources below the current level of appropriation.</p> <p>The total appropriations made during a fiscal year from any fund must not exceed the amount contained in the certificate of estimated resources or the amended certificate of estimated resources which was certified prior to making the appropriation or supplemental appropriation.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Accounting system capable of recording estimates and comparing them to actual results. • Reconciliations of amended certified amounts with amounts recorded in the accounting system. • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Analyze budget variances throughout the year. If significant, determine if an amended certificate should have been obtained.</p> <p>Inspect amended certificates of estimated resources for proper modifications.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

**Clarifying guidance
Added regarding legal level
of control.**

1-6 Compliance Requirement: Ohio Rev. Code Section 5705.38- Annual appropriation measure.

Summary of Requirements:

5705.38(A) requires that on or about the first day of each fiscal year, an appropriation measure is to be passed. If the taxing authority wants to postpone the passage of the annual appropriation measure until an amended certificate is received from the county budget commission based upon the actual year end balances, it may pass a temporary appropriation measure for meeting the ordinary expenses until no later than April 1. This does not apply to school district appropriations.

5705.38(B) provides that a board of education shall pass its annual appropriation measure by the first day of October. If a school district's annual appropriation measure is delayed as permitted by law (see below), the board may pass a temporary measure for meeting the ordinary expense of the district until it passes an annual appropriation measure.

As discussed in Auditor of State Bulletin 98-012 there are two circumstances when school district certificates/certifications would be issued after October 1:

1. A certificate/certification would be issued after October 1 when a district has borrowed against its spending reserve. This certificate/certification would not be issued until second half personal property taxes are settled.
2. A certificate/certification would be issued after October 1 when the delivery of a tax duplicate is delayed under Ohio Rev. Code §323.17 because a subdivision in the county has placed a levy on the November ballot which, if approved, will go on the current tax list and duplicate.

If a school district is in either of these two situations, passage of the annual appropriation measure should be delayed until the necessary certificates/certifications are received.

Legal Level of Control: Minimum Requirements³

1. Ohio Admin. Code 117-2-02(C)(1) states in part: "The legal level of control is the level (e.g.,

³ We should not recommend that governments adopt the highest level of control the statutes allows. Appropriating at lower levels than the minimums the ORC or OAC require provides the legislative authority with more control over disbursements. However, appropriating at very low levels can significantly increase the volume of appropriation amendments requiring legislative approval as well as possibly requiring additional disbursement codes (more function, object codes, etc.). Conversely, appropriating at higher levels may simplify appropriation measures, but in doing so, the legislative authority effectively delegates more spending decisions to the fiscal officer. The legislative authority should choose the level of control they feel meets their need to control expenditures. Also, the legislative authority may choose differing levels of control for different funds, as long as they meet at least the minimum statutory requirements.

fund, program or function, department, object) at which spending in excess of budgeted amounts would be a violation of law. This is established by the level at which the legislative body appropriates. For all local public offices subject to the provisions of Chapter 5705 of the Revised Code, except school districts and public libraries, the minimum legal level of control is described in Section 5705.38 of the Revised Code (see 2 below). For school districts, the minimum legal level of control is prescribed in Rule 117-6-02 of the Administrative Code (See 3 below). For public libraries, the minimum legal level of control is prescribed in Rule 117-8-02 of the Administrative Code (See 4 below). The legal level of control is a discretionary decision to be made by the legislative authority, *unless otherwise prescribed by statute.*"

2. Ohio Rev. Code 5705.38(C) requires the following minimum level of budgetary control for "subdivisions" other than schools: "Appropriation measures shall be classified so as to set forth separately the amounts appropriated for each office, department, and division, and, within each, the amount appropriated for personal services."⁴
3. Ohio Admin. Code 117-6-02 prescribes the following for school districts' legal level of control: At a minimum, appropriation measures shall be classified to set forth separately the amounts appropriated by fund. The appropriation measure as passed by the school board shall be the legal level of control. This is the level at which compliance with statutory budgetary requirements will be determined. **The AOS recommended that a board of education pass appropriations at a more detailed level. This is, however, a discretionary decision for the board of education based on the degree of control the board of education wishes to maintain over the financial activity of the school district.**
4. Ohio Admin. Code 117-8-02 The library's legislative body shall adopt appropriation measures. These measures establish the legal level of control.
5. Ohio Admin. Code 117-2-02(C)(1) also states in part: all local public offices should integrate the budgetary accounts, at the legal level of control or lower, into the financial accounting system. This means designing an accounting system to provide ongoing and timely information on unrealized budgetary receipts and remaining uncommitted appropriation balances.

Amounts / Funds Not Subject to Budgeting

- The nonexpendable principal of nonexpendable trust funds. Appropriating nonexpendable principal would authorize the fiscal officer to spend the principal in violation of the trust agreement. [5705.36(A)]
- For some time, AOS policy has been that agency funds do not require budgeting. Agency funds account for money a government holds in an agency capacity on behalf of another person or entity. Therefore a government has minimal discretion in spending this money. Accordingly the legislative body need not authorize a purpose for spending the money.

⁴ **IMPORTANT:** Governments may have appropriated at higher levels than 5705.38 prescribes, based on guidance this office previously issued, such as in Bulletin 97-10. Therefore, we should not issue noncompliance findings to governments that relied on this advice. Instead, we should inform them they should correct this matter prior to preparing their next original appropriation.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Accounting system capable of recording appropriations and comparing them to actual results. • Reconciling appropriation totals to totals recorded in the accounting system. • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Read the minutes and determine if an annual appropriation measure has been passed by the required date.</p> <p>If a school district has delayed adoption of an annual appropriation measure, discuss the reasons for the delay and trace to supporting documentation.</p> <p><u>Scan appropriation measures to determine whether they meet at least the minimum legal level of control 5705.38(C) prescribes.</u></p> <p><u>Determine if the accounting system “integrates” budgetary data at the legal level of control. This means the accounting system should report appropriations, encumbrances, unencumbered cash balances, and estimated receipts, compared to actual results.</u></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

<p>1-7 Compliance Requirement: Ohio Rev. Code Section 5705.39 - Appropriations limited by estimated resources.</p> <p>Summary of Requirements: This section provides in part that total appropriations from each fund shall not exceed the total estimated resources. No appropriation measure is effective until the county auditor files a certificate that the total appropriations from each fund do not exceed the total official estimate or amended official estimate.</p> <p>As discussed in Auditor of State Bulletin 97-012, if a local government is participating in a grant or loan program whereby proceeds will be received after the expenditures are incurred, it is possible that if properly budgeted, appropriations for one fiscal year will exceed the available amount on the certificate of estimated resources. However, an advance should be used to prevent a negative fund balance. Negative variances in grant funds, between appropriations and certified available resources, should be investigated to determine the cause of the variance.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Accounting system reports deficit budgetary balances if appropriations exceed estimated resources. • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Comparisons of Proposed Appropriations with Certified Estimated Revenues • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employee 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Compare the appropriation measures with the appropriation from each fund and determine that the appropriations do not exceed the official or amended estimate of resources (estimated revenues plus unencumbered fund balances).</p> <p>Determine whether the county auditor sent a “does not exceed” certificate to the government.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable</p>		

conditions/material weaknesses, and management letter comments):

1-8 Compliance Requirement: Ohio Rev. Code Section 5705.40 - Amending or supplementing appropriations, contingencies.

Summary of Requirements: Any appropriation measure may be amended or supplemented if the entity complies with the same laws used in making the original appropriation. However, no appropriation may be reduced below an amount sufficient to cover all unliquidated and outstanding contracts or obligations against them. “Transfers” * may be made by resolution or ordinance from one appropriation item to another. Subject to certain limitations, the annual appropriation measure may contain an appropriation for contingencies.

Rulings filed in the case of C. B. Transportation, Inc. v. Butler County Board of Mental Retardations, 60 Ohio Misc. 71, 397 N.E.2d 781 (C.P. 1979), as well as Burkholder v. Lauber, 6 Ohio Misc. 152 (1965), held that a board or officer whose judgment and discretion is required, was chosen because they were deemed fit and competent to exercise that judgment and discretion and unless power to substitute another in their place has been given, such board or officer cannot delegate these duties to another. Following such reasoning, a local government’s governing board would be prohibited from delegating duties statutorily assigned to it, such as the ability to amend appropriations as provided for in Ohio Rev. Code section 5705.40.

* “Transfers” in this context mean reallocations of appropriations. These do not refer to transfers of cash between funds.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Accounting system capable of recording appropriations and comparing them to actual results. • Reconciling appropriation totals to totals recorded in the accounting system. • Policies and Procedures Manuals • Knowledge and Training of personnel • Comparison of Outstanding Encumbrances and Balances to Proposed Amendments • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>Inquire (or determine from reading the minutes) if amended or supplemental appropriation measures have been passed. If so, inspect the amended certificate executed by the county budget commission.</p> <p>Inspect the government's records throughout the period to determine if updates and adjustments were properly and timely posted.</p> <p>Match appropriations amendments, supplements and transfers with resolutions or ordinances.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

**County Commissioner
Authorization Section
revised per SB 82
Effective Feb.12, 2004**

1-9 Compliance Requirements: Ohio Rev. Code Section 5705.38, 5705.41 (A), (B),(C) and (D). 5705.42-Restrictions on appropriating and expending money.

Summary of Requirements: The authorization of a bond issue is deemed an appropriation of the proceeds of the bond issue for the purpose for which such bonds were issued. No expenditure shall be made from any bond fund until first authorized by the taxing authority. [Section 5705.41(A)].

Similarly, Federal grants or loans are “deemed appropriated for such purpose by the taxing authority”⁵ as provided by law and shall be recorded as such by the fiscal officer of the subdivision, and is deemed in process of collection [5705.42]

No subdivision or taxing unit is to expend money unless it has been appropriated. [Section 5705.41(B)].

No subdivision is to expend money except by a proper warrant drawn against an appropriate fund. [Section 5705.41(C)].

No orders or contracts involving the expenditure of money are to be made unless there is a certificate of the fiscal officer that the amount required for the order or contract has been lawfully appropriated and is in the treasury **or in the process of collection**⁶ to the credit of an appropriate fund free from any previous encumbrances. [Section 5705.41(D)].⁷

The statute provides the following exceptions to this basic requirement:

Then and Now Certificate: This exception provides that, if the fiscal officer can certify that both at the time that the contract or order was made and at the time that he is completing his certification, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance, the taxing authority can authorize the drawing of a warrant. The taxing authority has 30 days from the receipt of such certificate to approve payment by resolution or ordinance. If approval is not made within 30 days, there is no legal liability on the part of the subdivision or taxing district.

Amounts of less than \$100 for counties, or less than \$3,000 (~~\$1,000 prior to April 7, 2003~~) for other political subdivisions, may be paid by the fiscal officer without such affirmation of the taxing authority upon completion of the "then and now" certificate, provided that the expenditure is otherwise lawful. This does not eliminate any otherwise applicable requirement for approval of expenditures by the taxing authority. [Section 5705.41(D)].

Summary of Requirements (continued):

Continuing Contracts to be Performed in Whole or in Part in an Ensuing Fiscal Year - Where a continuing contract is to be performed in whole or in part in an ensuing fiscal year, only the amount required to meet those amounts in the fiscal year in which the contract is made need be certified. (1987 Op. Atty. Gen. 87-069).

Per Unit Contracts - Where contracts are entered into on a per unit basis, only the amount estimated to become due in the current fiscal year need be certified. (1987 Op. Atty. Gen. 87-069).

Contract or Lease Running Beyond the Termination of the Fiscal Year Made - Pursuant to Section 5705.44, Ohio Rev. Code, where a contract or lease runs beyond the termination of the fiscal year in which it is made, only the amount of the obligation maturing in the current fiscal year need be certified. The remaining amount is a fixed charge required to be provided for in the subsequent fiscal year's appropriations.

The Attorney General, in 1987 Op. Atty. Gen. No. 87-069, has clarified the application of the exceptions set forth above. In summary, he has indicated that:

If a government subject to Ohio Rev. Code Section 5705.41 (D) enters into a continuing contract under which no goods or services will be delivered during the current fiscal year and payment will not be due until delivery, no amount need be certified as available during the current fiscal year. Pursuant to Ohio Rev. Code Section 5705.44, the amount remaining unpaid at the end of a fiscal year to become due in the next fiscal year must be included in the annual appropriation measure for the next fiscal year as a fixed charge.

If under a continuing contract it cannot be determined whether delivery of goods or services and the obligation to make payment will take place in the current or an ensuing fiscal year, the total amount due under the contract must be certified as available during the current year.

If under a continuing contract delivery of goods or services is to occur in the current fiscal year with the obligation to make payment deferred until an ensuing fiscal year, the amount required to meet the

⁵ “Deemed appropriated” means the legislative body can appropriate the amounts only for the purposes the grant / loan / bond proceeds etc., agreement describes. AOS Bulletin 97-012 concluded that amounts “deemed appropriated” still require formal appropriation by the legislative body per 5705.40. Of at least equal control / compliance importance is whether the fiscal officer recorded the appropriation in the accounting system, at the legal level of control, which OAC 117-2-02(C)(1) requires.

⁶ It is permissible to certify a purchase without sufficient cash “in the bank” if a government is reasonably certain cash will be on hand in time to pay the invoice when due (i.e. is “in the process of collection”). For example, the Ohio EMA disburses Homeland Security grants only when the local government certifies to OEMA they have an invoice on hand requiring payment. Since the government will receive OEMA’s cash in time to pay the vendor, the CFO can certify the acquisition even if there is no cash in the fund at the time of the certification. (This assumes there is sufficient appropriation for the payment).

⁷ Under ORC Sections 9.10, 9.11 and 1306.06 and OAG Opinion 90-082, the fiscal officer need not manually sign each certification. Electronic or mechanical signatures are permissible. However, ORC Section 9.10 expressly prohibits using rubber stamp signatures.

obligation for goods or services delivered during the current fiscal year must be certified as available in that fiscal year.

If a government subject to Ohio Rev. Code Section 5705.41 (D), enters into a contract that is not a continuing contract, the total amount due under the contract must be certified as available in the fiscal year in which the contract is made, regardless of when delivery of goods or services will be made or when payment will become due.

County Commissioner Authorization - A board of county commissioners, by resolution, may exempt purchases of \$1,000 (~~\$750 prior to February 12, 2004~~) or less from the prior certification requirement. The resolution must specify the dollar limit applicable to such purchases and whether it applies to all purchases, is limited to certain classes of purchases, or is limited to specific purchases. The board must notify the county auditor in writing of its intention to adopt such a resolution and the scope of the resolution. The county auditor has 15 days to comment on the resolution before it may be adopted by the board. Where such a resolution has been adopted, any person authorized to make purchases, within 3 business days (or other time limit the commissioners resolve) of making a purchase exempted under the resolution, must file with the county auditor a written or electronic document stating the purpose, amount, appropriation line item and date of the purchase, and the name of the vendor.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Review/Comparison/Recomputations of Purchase Documents • Budgetary/Purchasing Accounting/Monitoring System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees -- Policies and Procedures Manuals 		

Suggested Audit Procedures - Compliance (Substantive) Tests

<ol style="list-style-type: none"> 1. Determine whether the governing board passed a policy regarding the use of electronic or mechanical signatures in accordance with ORC Sections 9.10, 9.11 and 1306.06 and OAG Opinion 90-082. 2. Review certifications to determine whether prohibited rubber stamp signatures were used. 3. Compare total expenditures and contract commitments (including outstanding encumbrances) from each fund with appropriations and determine if the expenditures and commitments are within the appropriations for each fund. 4. For selected “line items,” compare total expenditures and contract commitments (including outstanding encumbrances) at the legal level of control within selected funds with appropriations. Determine if the expenditures and commitments are within the appropriation at the legal level of control. 5. Search for material unrecorded liabilities and/or encumbrances. Refer to minutes and records immediately following the fiscal year cutoff date. 6. Compare the date of the fiscal certificates with invoice dates, noting whether or not the certificate date precedes the invoice/obligation date. Note: <ul style="list-style-type: none"> • The obligation date may precede the invoice date. If separately identified, use the obligation date when determining compliance. • <u>As interpreted by AOS Bulletin 97-012, if the government does not expect to complete the project in the current year, the remainder of the project must be appropriated immediately in the subsequent year(s).</u> 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

1-10 Compliance Requirement: Ohio Rev. Code Section 5705.41 (D) - "Blanket" fiscal officer certificates.

Summary of Requirements: Fiscal officers may prepare so-called "blanket" certificates for a sum not exceeding an amount established by resolution or ordinance adopted by the members of the legislative authority against any specific line item account over a period not running beyond the end of the current fiscal year. The blanket certificates may, but need not, be limited to a specific vendor. Only one blanket certificate may be outstanding at one particular time for any one particular line item appropriation.

In addition to regular blanket certificates, a subdivision's fiscal officer may also issue so-called "super blanket" certificates for any amount for expenditures and contracts from a specific line-item appropriation account in a specified fund for most professional services, fuel, oil, food items and any other specific recurring and reasonably predictable operating expense. This certification is not to extend beyond the fiscal year or, in the case of counties, beyond the quarterly spending plan established by the county commissioners. More than one super blanket certificate may be outstanding at one particular time for a particular line-item appropriation account.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Periodic Inspection/Monitoring of Blanket Purchase Orders • Use of a log to record blanket certificates issued, track the period outstanding, and monitor the number of regular blanket certificates outstanding per account • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>Inspect a representative number of “regular blanket” certificates and determine that:</p> <ul style="list-style-type: none"> • The amount is established by an ordinance or resolution passed by a majority of the legislative body. (If the legislative authority passed this in the prior years, agree to permanent file documentation.) • They do not run beyond the fiscal year end. • They do not exceed the amount the legislative body established. • Only one certificate is outstanding per line item appropriation. <p>For subdivisions using “super blanket” certificates, inspect the certification of the fiscal officer and determine whether:</p> <ul style="list-style-type: none"> • The certificates were for professional services, fuel, oil, food items or any other specific recurring and reasonably predictable operating expense and, • They do not run beyond the fiscal year (or quarterly spending plan, if a county adopted a plan). 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

<p>1-11 Compliance Requirement: Ohio Revised Code Section 9.34 - Establishing different fiscal years for one or more <u>funds</u> for subdivisions other than school districts or county school financing districts.</p> <p>Summary of Requirements: Ohio Rev. Code 9.34 prescribes fiscal years for certain government units. It states that the fiscal year of the state and every school district shall begin on July 1 and end on June 30. It also states that the fiscal year of every school library district and all political subdivisions or taxing districts⁸ except for school districts shall begin on January 1 and end on December 31.</p> <p>All laws that relate to levying of taxes, the collection, appropriation and expenditure of revenues or the making of financial reports refer and apply to the appropriate fiscal year as defined in this section.</p> <p>However, ORC 9.34 also allows a political subdivision, other than a school district or a county school financing district, to use a different fiscal year or other fiscal period for one or more of its funds, including a fiscal year based upon the fiscal year of an entity providing money for the fund (i.e., a grantor agency) or the fiscal period of a capital project.⁹</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

⁸ As used in this section, school library district, subdivision and taxing district have the same meaning assigned in Section 5705.01 of the Ohio Rev. Code. See the OCS 5705.01 Appendix. Therefore, this requirement does not apply to some entities, such as agricultural societies, community improvement corporations, etc.

⁹ GASB only requires budgetary financial statements for funds having annual appropriated budgets. Therefore, an entity need not include annual budgetary statements for capital project funds for which budgets are adopted on a project-length basis. Also, an entity need not include annual budgetary statements for other funds for which budgets are adopted on a fiscal year or period other than the entity’s. However, the notes to the financial statements should disclose the principles used to budget these funds.

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>You should consider all laws affected by fiscal year considerations in designing controls tests and legal compliance tests for affected material funds. For example, many budgetary laws require certifications from the county auditor before a government can appropriate and spent money; these laws should be applied to the fiscal year or other period the fund uses.</p> <p>If an entity uses a different fiscal year end for anything except a grant fund or a capital projects fund, inspect the approval letter from the Auditor of State permitting this practice.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

1-12 Compliance Requirement: Ohio Rev. Code Sections 118.021 - 118.023, 118.03, 118.05 - .06, 118.10, 118.12 - .13, and 118.15 fiscal watch and fiscal emergency for a municipal corporation, county or township.

Summary of Requirements:

In accordance with Ohio Rev. Code Section 118.021, a municipal corporation, county or township may undergo a fiscal watch review to determine whether it is approaching a state of fiscal emergency. The review will be initiated by a written request to the Auditor of State.

Pursuant to 118.022, any one or more of the following conditions are grounds for a **fiscal watch**:

- (1)(a) All accounts that were due and payable from the general fund of a municipal corporation, county, or township at the end of the preceding fiscal year that had been due and payable for at least thirty days at the end of the fiscal year or to which a penalty was added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund, exceeded one-twelfth of the general fund budget for that year, or
- (b) All accounts that were due and payable at the end of the preceding fiscal year from all funds of the municipal corporation, county, or township and that had been due and payable for at for at least thirty days at the end of the fiscal year or to which a penalty was added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds available to pay those accounts, exceeded one-twelfth of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which those accounts are payable.

OR

- (2) The aggregate of deficit amounts of all deficit funds at the end of the preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in Ohio Rev. Code § 5705.14 to meet that deficit, exceeded one-twelfth of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than transfers from the general fund.

OR

- (3) At the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the municipal corporation, county, or township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds, the purposes of which the unsegregated treasury is held to meet, and that deficiency exceeded one-twelfth of the total amount received into the unsegregated treasury during the preceding fiscal year.

OR

Summary of Requirements (continued):

- (4) Based on the AOS' examination of the financial forecast approved by the legislative authority of a municipal corporation, county, or township, the AOS certifies that the general fund deficit at the end of the current fiscal year will exceed one-twelfth of the general fund revenue from the preceding fiscal year.

Pursuant to 118.023, upon a determination that any of the above listed conditions are present, the Auditor of State shall issue a written declaration of a fiscal watch.

Pursuant to 118.03, any one or more of the following are conditions of a **fiscal emergency**:

- (1) The existence, at the time of the determination by the AOS under Ohio Rev. Code § 118.04 of a default on any debt obligation for more than thirty days.

OR

- (2) The existence, at the time of the determination by the AOS under Ohio Rev. Code § 118.04 of a failure for lack of cash in the funds to make payment of all payroll to the employees of a municipal corporation, county, or township in the amounts and at the times required by law, ordinances, resolutions, or agreements, which failure of payment has continued:

- (a) For more than thirty days after such time for payment, or
- (b) Beyond a period of extension, or beyond the expiration of ninety days from the original time for payment, whichever occurs first, if the time for payment has been extended for more than thirty days by the written consent of at least two-thirds of the employees affected by such failure to pay, acting individually or by their duly authorized representatives. The failure of one county office, board, or commission to meet payroll does not in itself constitute a fiscal emergency.

OR

- (3) An increase, by action of the county budget commission pursuant to Ohio Rev. Code §5705.31(D) in the minimum levy of the municipal corporation, county, or township for the current or next fiscal year which results in a reduction in the minimum levies for one or more other subdivisions or taxing districts.

OR

- (4) The existence of a condition in which all accounts that, at the end of its preceding fiscal year, were due and payable from the general fund and that either had been due and payable for at least thirty days at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, including, but not limited to, final judgments, fringe benefit payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon, less the year-end balance in the general fund, exceeded one-sixth of the general fund budget for that year, or in which all accounts that, at the end of its preceding fiscal year, were due and payable from all funds of the municipal

corporation, county, or township and that either had been due and payable for at least thirty days at the end of that fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds lawfully available to pay such accounts, exceeded one-sixth of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts lawfully are payable. Accounts due and payable shall not include any account, or portion thereof, that is being contested in good faith.

OR

- (5) The existence of a condition in which the aggregate of deficit amounts of all deficit funds at the end of its preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in Ohio Rev. Code § 5705.14 to meet such deficit, exceeded one-sixth of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.

OR

- (6) The existence of a condition in which, at the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the municipal corporation, county or township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded one-sixth of the total amount received into the unsegregated treasury during the preceding fiscal year.

Pursuant to 118.04, the Auditor of State shall determine the existence of fiscal emergency conditions. The existence of any such condition constitutes a fiscal emergency.

Suggested Audit Procedures - Compliance (Substantive) Tests

If the municipal corporation, county or township is currently in fiscal watch, review the entity’s progress and determine whether any of the fiscal watch conditions currently exist. If during audit work and based on the evaluation of the fiscal watch conditions, the auditor notes an improvement (i.e., fiscal watch conditions no longer exist) or a deterioration (i.e., fiscal emergency conditions now exist), the auditor should contact the engagement chief auditor. If after evaluation the chief auditor concludes the entity should be removed from fiscal watch or should be placed in fiscal emergency, the chief auditor should contact the Chief Deputy Auditor or his designee.

If the municipal corporation, county or township is currently in fiscal emergency review the entity’s detailed financial plan and recovery plan. An effective recovery plan should identify the steps necessary for the entity to fully recover from fiscal watch or fiscal emergency and identify target dates to achieve each component of the recovery plan. The recovery plan should be periodically updated for any changes in circumstances affecting the entity. Determine whether the entity has violated any statutory requirements to follow the plan.

- Determine whether the entity has established a financial planning and supervision commission. [Ohio Rev. Code § 118.05]
- Determine whether the mayor, county commissioners or township trustees have submitted (within 120 days) a detailed financial plan outlining the actions to be taken to eliminate all fiscal emergency conditions; satisfy any judgments, past due accounts payable and all past due and payable payroll and fringe benefits; eliminate deficits in all deficit funds; balance the budgets and avoid future deficits in any funds; maintain current payments for payroll, fringe benefits and accounts; restore the ability of the entity to market long-term general obligation bonds under provisions of law applicable to the entity; and other requirements of Ohio Rev. Code § 118.06.
- Determine whether the entity has developed an effective financial accounting and reporting system to comply with Ohio Rev. Code Chapter 117. [Ohio Rev. Code § 118.10]
- Determine whether expenditures made are in accordance with the approved financial plan subject to the requirements of Ohio Rev. Code § 118.12.
- Determine whether the appropriations measures and tax budget are consistent with the financial plan. [Ohio Rev. Code § 118.13]
- Determine whether the debt obligations have been approved by the commission and the ordinances authorizing the issuance contain all required elements. [Ohio Rev. Code § 118.15 – 118.99. [Ohio Rev. Code § 118.15]

If after evaluation the chief auditor concludes the entity should be removed from fiscal emergency, the chief auditor should contact the Chief Deputy Auditor or his designee.

If such information comes to the attention of an IPA while conducting an audit, the IPA should contact the regional chief auditor.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section B: Additional School District Requirements

Compliance requirements 1-13 through 1-16 apply only to school districts. (Except, 1-13 now applies to community schools.)

**Revised per HB 364,
effective 4/8/03**

1-13 Compliance Requirement: Ohio Rev. Code Section 5705.391 and Ohio Admin. Code § 3301-92-04: School boards (including community schools, as described on the next page, per ORC 3314.03(A)(11)(d)) must adopt spending plan; school districts to prepare 5 year projections.

Summary of requirements for public school districts (i.e. districts that are not community schools):
Ohio Rev. Code Section 5705.391 (A)

The board must adopt, as a part of its annual appropriation measure, a “spending plan” (to be amended as the appropriations are amended). The “spending plan”, which is a defined term that does not mean the regular annual appropriation budget 5705.38 requires, should indicate expenses and expenditures of all appropriated funds for the fiscal year.

A copy of each appropriation measure and related spending plan is to be submitted to the superintendent of public instruction.¹⁰ This plan should indicate the following:

- all revenues available for appropriation and their source;
- the nature and amount of expenditures;
- outstanding and unpaid expenses incurred on the date the appropriation measure is adopted;
- the schedule of payment, and
- other information the superintendent of public instruction requires to determine whether the district will incur expenses that will impair its ability to operate its schools with the revenue available.

¹⁰ The “superintendent of public instruction” is a State official. The SPI considers filing the 5 year projection under Ohio Rev. Code Section 5705.391(B) sufficient to comply with this division.

Ohio Rev. Code section 5705.391(B)

School districts must prepare 5 year projections of revenues and expenditures as part of the spending plans. Most of the guidance on how to prepare these projections is found in Ohio Admin. Code § 3301-92-04. The plan must be submitted to the Department of Education upon the adoption of an annual appropriation measure, but no later than October 31 of any fiscal year.

For fiscal years ended June 30, 2005 or later, the revised 5 year projection must be filed with the Department of Education between April 1 and May 31 of each fiscal year (Ohio Admin. Code Section 3301-92-04(F)).

Districts must update projections if the revenue assumption or revenue estimates used as a basis for a "412" certificate differ from the existing five year projection (Ohio Admin. Code Section 3301-92-04(F)).

The rules allow the Auditor of State and the Ohio Department of Education to prescribe the format and content of the 5 year projection. These guidelines are fairly complex (see Bulletin 98-015 for more information). The Auditor of State and the Ohio Department of Education generally are responsible for reviewing these projections (and related assumptions) for conformity with the requirements. The independent auditor is expected to evaluate whether the data in the projections for the current period are reasonably supported by the client's documentation.

Summary of requirements for community schools:

To meet this requirement, community schools must submit the spending plan available at :

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=998&Content=25212>

Then click on *Five-Year Budget Forecast*.

Scan the school's forecast submitted for the audit year, and scan evidence that it was timely submitted.

Determine if the minutes document the board's approval of the plan.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Inspect the spending plans adopted with the temporary, annual, and any revisions of the annual, appropriation resolutions.</p> <p>Inspect documentation indicating a copy of each was sent to the superintendent of public instruction (this would normally be satisfied by inspecting the electronically prepared document). <i>Alternative procedure:</i> determine that the 5 year projection under Ohio Rev. Code Section 5705.391(B) was filed with the superintendent of public instruction. (Filing the 5 year projection satisfies this compliance requirement.)</p> <p>Compare actual revenues and expenditures to projections. Inspect documentation that the district updated its projections between April 1 and May 31.</p> <p>If contracts, etc., subject to §5705.412 were entered into during the period, inspect documentation indicating the related 5 year projections were updated.</p> <p>Foot and crossfoot the 5 year projections.</p> <p>Inspect documentation supporting the 5 year projections. Evaluate for reasonableness.</p> <p>Read the client’s assumptions. Perform analytical procedures and evaluate whether the assumptions are reasonable and the resulting projections are in accordance with those assumptions.</p> <p>Consider if the projections indicate any possible “going concern” conditions [AU § 341] or fiscal distress conditions [OCS Section 1-16].</p>		

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

1-14 Compliance Requirement: Ohio Rev. Code Section 5705.412 - Restriction upon **school district expenditures** and certifying adequate revenues. Application: City, local, exempted village and joint vocational school districts.

Summary of Requirements: Ohio Rev. Code §5705.412 requires the **treasurer, superintendent and president of the board of education** to certify that adequate revenues will be available to maintain all personnel and programs for the current fiscal year and for a number of days in the succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year. For a district in fiscal emergency under Ohio Rev. Code chapter 3316, the district need not obtain a certificate of adequate revenue pursuant to Ohio Rev. Code Section 5705.412 when taking action that otherwise would be subject to that certification requirement (OAG Opinion 2000-028).

Term of certificate:

- The certificate attached to an appropriation measure covers only the fiscal year in which the appropriation measure is effective.
- The certification must be attached to all appropriation measures *except* for temporary measures when the temporary measure (1) does not appropriate more than twenty-five percent of the total resources available last year for any fund, (2) the measure will not be in effect for more than thirty days after the earliest date the district could pass an annual appropriation measure, (3) and an amended certificate of available revenues has not been certified to the district under Ohio Rev. Code §5705.36.
- The certificate attached to a **qualifying contract** covers the term of the contract.
- The certificate attached to a wage or salary schedule covers the term of the schedule.
- A “*qualifying contract*” is “. . . any agreement for the expenditure of money under which aggregate payments from the funds included in the school district’s five-year forecast under section 5705.391 of the revised code [see OCS Section 1-13] will exceed the lesser of the following amounts . . .”:
 - \$500,000;
 - 1% of the general fund’s total estimated revenues as certified in the district’s most recent certificate of estimated resources under Ohio Rev. Code § 5705.36 [see OCS Sections 1-4 and 1-5]

Summary of Requirements (continued):

Tax levies: The certification of an appropriation measure may not anticipate the renewal or replacement of an existing property tax levy nor the approval to extend an existing income tax levy beyond its current expiration. All other certifications may anticipate the renewal or replacement of existing property tax levies and the approval to extend an existing income tax levy beyond its current expiration (OAC 3301-92-05 (B)).

A school district must include the additional certification under Section 5705.412 along with the certification required under Section 5705.41 *except* under the following circumstances:

- for current payrolls of, or contracts of employment with, ~~regular~~ any employees or officers of the school district.¹¹
- when increasing the wages or salaries enabling the school board to comply with division (B) of Ohio Revised Code Section 3317.13, which addresses the minimum salary schedule for teachers

Section 5705.412 certificates *should* be executed for:

- appropriation measures (except certain temporary measures; see above);
- increased salary or wage schedules¹² and
- any other “qualifying contracts”, including 1) negotiated agreements (e.g. professional association [“union”] contracts) and, 2) contracts for benefits (e.g., major health insurance contracts)

Obligations that have not been certified as required are considered void. No payments may be made on void obligations.

Penalties: Anyone who knowingly does any of the following, is liable for the full amount paid on the obligation, up to \$10,000:

- executing an obligation contrary to §5705.412,
- expending or authorizing the expenditure of public funds contrary to §5705.412, or

¹¹ For example, contracts with individual teachers do not require a “412” certificate, though the negotiated agreement and/or teaching staff salary schedule generally would. Similarly, an employment contract with an individual administrator, who is not covered by a board adopted salary schedule would not require “412” certification. Also, you should regard the HB 3 (125th General Assembly) change of “regular” to “any” as a clarification, not a substantive change in law.

¹² Increased salary schedules that are part of a contract previously lawfully certified under section 5705.412 need not be re-certified before they take effect. However, the district may have to adjust revenues and expenditures, in the section 5705.391(B) five-year projection, in the year the increased salary or wage schedule takes effect in order to properly certify its annual appropriation measure.

<p>➤ authorizing or making payment of public funds on a void obligation</p>		
<p>The Auditor of State is required to refer contractual or wage schedule noncompliance to the District’s statutory legal counsel.</p> <p>Districts should maintain a continuing record of contracts which have been certified and adequate documentation to substantiate the certifications (OAC 3301-92-05(E)).</p> <p>The rules for 5705.412 (Ohio Admin Code section 3301-92-05 (B) - (D)) provide guidance on projecting revenues to future periods for purposes of the certifications.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Preparation and review of 5 year projections under § 5705.391(B) • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<ol style="list-style-type: none"> 1. Scan minutes, contracts files, etc., to identify appropriation measures (except certain temporary measures), increased salary or wage schedules, and qualifying contracts. 2. Prepare a schedule of appropriation measures, increased salary or wage schedules, and qualifying contracts for which "412" certificates were not executed during the fiscal year. 3. If a qualifying contract, etc., should have been certified and the auditor cannot obtain documentation that it was, send the Board President a letter during the audit in substantially the form indicated in the sample immediately following this OCS Section¹³. Send copies to the parties indicated in the sample letter attached. 4. Select a representative number of qualifying contracts, etc., entered into during the fiscal year(s) under audit. Inspect the "412" certificates and the supporting documentation, including the 5 year projections that were available to district officials at the time of the execution of the qualifying contracts, etc. Evaluate for reasonableness and conformity with the rules. 5. Compare qualifying contract, etc., dates with related certification dates and note any differences. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

¹³ If the district substantially complied with § 5705.412 certification provisions for appropriation measures, increased salary and wage schedules, and "qualifying contracts", the auditor may waive sending this letter and report the matter in the appropriate auditor's compliance report.

[DATE]

[Board President]
[Name & Type] School District
[Street Address]
[City], Ohio [Zip]

Re: Notice of Potential Ohio Rev. Code § 5705.412 Violation

Dear [Board President]:

While performing our audit of your District for the year ended June 30, YYYY, we noted a **[pick one: “qualifying contract”/annual appropriation measure/increased salary or wage schedule]** that did not have attached a contemporaneously executed certificate of adequate revenue as required by Ohio Rev. Code § 5705.412. **[Describe the contract, appropriation, or schedule at issue so that they know exactly which one we are questioning.]**.

Ohio Rev. Code § 5705.412, as amended, in effect from June 30, 2000, provides:

[N]o school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year...

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316 of the Revised Code, in which case the certificate shall be signed by a member of the district’s financial planning and supervision commission who is designated by the commission for this purpose.

.....

The law also provides, “[e]very qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made.”

Section 5705.412 specifically directs the Auditor of State’s Office to determine each school district’s compliance with the statute’s requirements.

If there is a certificate that was signed by **[you, the superintendent and the treasurer / the designated member of the financial planning commission]** at or about the time the **[qualifying contract/schedule/appropriation]** was made, please provide me with a copy of such certificate immediately. If no such certificate was executed at or about the time the **[qualifying contract/schedule/appropriation]** was made, the District has thirty (30) days to provide our Office with a properly executed certificate and appropriate supporting documentation. Appropriate supporting documentation is:

- the 5 year projection required by Ohio Admin Code § 3301-92-04, or,
- if such documentation was not available at the time of the required certification, the spending plan the District was required to prepare and submit to the Superintendent of Public Instruction pursuant to Ohio Rev. Code § 5705.391 (A), or
- any other documentation reflecting the District’s analysis of the financial impact of the **[qualifying contract/schedule/appropriation]**.

Section 5705.412 clearly provides that any **[contract/schedule/appropriation]** that is not certified is void as a matter of law. Therefore, you should also be aware that if you do not supply us with a properly executed certificate within the next thirty (30) days, § 5705.412 provides that any payments made on the **[contract/schedule/appropriation]** could be subject to repayment and recovery.

If you have any questions, please do not hesitate to call me.

Very truly yours,

MARY TAYLOR, CPA
AUDITOR OF STATE

[Your Name]
Chief Auditor, [Name] Region

- cc: [Board Member]
- [Board Member]
- [Board Member]
- [Board Member]¹⁴
- [Superintendent]
- [Treasurer]
- [Statutory Legal Counsel]
- bcc: Robert Hinkle
- Karen Huey

¹⁴ Send a copy to each board member.

1-15 Compliance Requirements:

Ohio Rev. Code §§ 3315.17 and .171 (textbooks); 3315.18 and .181 (capital); 3317.012 (adjusts base cost); 3317.02 (defines formula amount); Ohio Admin Code §§ 3301-92-01 (textbooks), -02 (capital)

Summary of Requirements: These laws and regulations require every city, local, exempted village and joint vocational school district, to establish two reserves:

- 1) the textbooks and instructional materials reserve and
- 2) the capital (acquisition) and maintenance reserve

The reserves are to be accounted for in the district's general fund using any reasonable accounting method.

The capital acquisition and textbooks reserves have several of the same characteristics:

- The reserves must be calculated and set-aside annually.
- If the set-aside amount is not spent in one year it is carried forward to the next year.
- The reserve must be represented by (restricted) cash at year-end.
- The reserve is calculated by multiplying the base amount by a percentage.
- The base represents the sum of certain specific prior fiscal year receipts.
- The base and annual set-aside formula are the same.
- The amount of the required reserve may be reduced (offset) by resources received during the year whose use is restricted to the purpose of one of the reserves.
- A schedule showing the balance of the set-aside carried forward from the previous year, a calculation of the current year set-aside, qualifying expenditures, any reductions to the required amount from receipts similarly restricted, and the year-end balance of the reserve¹⁵ must be submitted with the school district's annual report.

Summary of Requirements (continued):**Annual Set-Aside Calculation:**

- Calculate the reserve by multiplying a **percentage** of the **"formula amount"**¹⁶ by the district's **"student population"**¹⁷. The **preceding year's** "formula amount" and "student population" are

¹⁵ A board may withdraw cash contributions exceeding statutory minimums from these reserves by resolution.

Report any excess contributions in external financial reports as "designations" of governmental fund balance [GASB Cod. §1800.141].

¹⁶ "Formula amount" is the base cost per pupil as determined by Ohio Rev. Code Sections 3317.02 and .012. For FY 2004, the amount is \$5058. For FY '05, the amount is \$5,169.

¹⁷ *Student population* is a defined term. The Ohio Department of Education is responsible for calculating

used for the calculation:

$[(\% \times \text{Formula Amount}) \times \text{Student Population}]$

The percentage is set at 3% by statute, though the Auditor of State has been given some discretion to establish alternate percentages¹⁸.

- Annual election to follow pre S.B. No. 345 *textbook* and *capital* set-aside calculation:

In lieu of following the amended requirements, the board of education *annually* may elect (by resolution) to follow the textbook and/or capital set-aside requirements (from the ORC and the Admin. Code provisions) as they existed prior to July 1, 2001. (Audit programs D and E follow this OCS Section, and describe both options.)

This election must be made within 90 days after the beginning of the fiscal year for which the election is to apply.

Other textbook and instructional material requirements:

- The statute allows a district to spend the textbook reserve for things other than textbooks if certain conditions in the statute are satisfied.
- Fiscal year expenditures exceeding current year or accumulated set-aside requirements in the *textbooks and instructional materials* set-aside may be carried forward to offset future years' textbooks and instructional materials set-aside requirements. Actual cash balances in excess of required set-asides also may be carried forward to offset future year(s) textbook and instructional materials set-aside requirements¹⁹.

the student population based on information the district submits (3315.17(F)).

¹⁸ No alternative percentages have been established the date of this document.

¹⁹ An actual cash balance in excess of required set-aside in the capital and maintenance account may also be carried forward to offset future year(s) set-aside requirements, as these amounts represent discretionary contributions. A Board can withdraw these by resolution. (Also, report these as "designations" in governmental fund financial statements [GASB 1800.141].)

<p>Summary of Requirements (Continued):</p> <p>Other capital and maintenance provisions established by S.B. No. 345:</p> <ul style="list-style-type: none"> ➤ Within the capital and maintenance set-aside, the board of education <i>may</i> establish a separate account solely for depositing funds transferred from the budget stabilization reserve (discussed in Ohio Compliance Supplement Section 1-15 (A)) which was required by Ohio Rev. Code Section 5705.29(F) and (I) prior to April 10, 2001. ➤ Funds deposited into the separate account and interest on those funds²⁰, may only be used for the district’s share of basic project costs for any project undertaken in accordance with Ohio Rev. Code Chapter 3318 (School Facilities Commission projects). (See OCS Chapter 2 for a discussion of certain ORC Chapter 3318 programs.) 		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an effective accounting system • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Special programs for auditing these reserves immediately follow. If the district <u>has not</u> elected to follow the pre SB 345 base calculation use Audit Programs A and B. If the district has elected to follow the pre SB 345 base calculation, use Audit Programs D and E.</p>		

²⁰ These funds and interest deposited into the capital and maintenance reserve may be treated as deposits to reduce the annual capital and maintenance contribution otherwise required.

1-15 (A) Compliance Requirements:

Ohio Rev. Code § 5705.29 (F) (budget stabilization); Ohio Admin. Code § 3301-92-03 and; Temporary Law, Section 4, Senate Bill No. 345 of the 123rd General Assembly.

Summary of Requirements: Effective April 10, 2001, S.B. No. 345 eliminated the requirement that districts establish and maintain a budget stabilization reserve. The Act provides requirements for the disposition of any budget reserve balance that may have existed at April 10, 2001.

Any balance (this includes the amount representing required Bureau of Workers' Compensation (BWC) deposits and the amount representing other required deposits) remaining in the previously required budget reserve at April 10, 2001, may at the board's discretion be:

- Returned to the general fund²¹;
- Left in the reserve account and used by the board to offset any budget deficit the district may experience in future years²²; or
- Used for the district's portion of basic project costs for any School Facilities Commission Project. (See Ohio Compliance Supplement Chapter 2 for a discussion of these projects.)

²¹ The district must maintain documentation to support the use of any BWC balance for permitted purposes (see *Use of BWC Portion*).

²² To exercise this option, the Board must adopt a resolution and comply with the budget reserve provisions in Ohio Rev. Code 5705.13(A) (OCS Section 1-26).

Summary of Requirements (continued):Use of BWC Portion:

Any balance in the budget reserve constituting a **BWC** refund or rebate, may be used solely:

- to offset a budget deficit²³;
- for school facility construction, renovation, or repair²⁴ (may transfer to a separate account in the capital and maintenance set-aside as discussed above²³);
- for textbooks or instructional materials,²⁵ including science equipment for laboratories;
- for purchase of school buses²³; or
- for professional development of teachers

Use of Other Portion:

The reserve balance not representing a required BWC contribution, may be:

- Retained in the reserve account and used to offset a budget deficit;²²
- Returned to the unreserved general fund balance (and used for any purpose permissible for the general fund);
- Transferred to a separate account in the capital and maintenance set-aside as discussed above.²⁶

²³ The district must maintain documentation to support the use of any BWC balance for permitted purposes (see *Use of BWC Portion*).

²⁴ To count as a qualifying expenditure against the capital and maintenance set-aside, or the textbook and instructional materials set-aside, these monies must be deposited into the respective set-asides and used for qualifying expenditures. Deposits in excess of the required deposit should be reported as *designations* for external financial reporting purposes.

²⁵ To exercise this option, the Board must adopt a resolution and comply with the budget reserve provisions in Ohio Rev. Code 5705.13(A) (OCS Section 1-26).

²⁶ Deposit in a separate capital and maintenance set-aside account counts toward meeting the required capital and maintenance set-aside deposit. Deposits in excess of the required deposit should be reported as *designations* for external financial reporting purposes.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an effective accounting system • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ol style="list-style-type: none"> 1. The disposition of the budget reserve should have been audited in 2001. Refer to the permanent file if the reserve is still being maintained by the district for adherence to the district’s chosen plan of disposition. Compare what the district has done with the reserve assets during the period of the current audit with the district’s disposition plan. 2. Vouch to determine whether any BWC balance was used in accordance with the board’s resolution and solely: <ul style="list-style-type: none"> • to offset a budget deficit (must establish an ORC 5705.13 (A) budget reserve with the balance subject to the 5% limitation); • for school facility construction, renovation, or repair; • for textbook or instructional materials, including science lab equipment; • for purchase of school buses; or • for professional development of teachers 3. For BWC balances not retained in an ORC 5705.13(A) budget reserve and not deposited into the capital or textbook set-asides, determine whether the district has established procedures to demonstrate that BWC balances are used for permitted purposes (e.g. use of a special cost center within the general fund) 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Audit Program - A
AUDITING THE TEXTBOOKS AND INSTRUCTIONAL MATERIAL RESERVE

If a district elected to apply the pre SB 345 base calculation, use Audit Program D.

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
1.	Testing note accuracy.			
a.	Foot and crossfoot the note.			
b.	Foot and crossfoot the client's underlying calculations (if any).			
2.	Trace beginning of the year balance to prior audited financial statements or working papers.			
3.	Test the annual reserve calculation by multiplying the percentage ²⁷ by the "formula amount" ²⁸ and multiplying the result by the district's "student population" ²⁹ . The preceding year's "formula amount" and "student population" should be used for this calculation: <div style="text-align: center;">[(% x Formula Amount) x Student Population]</div>			
a.	This information is available for each school district and joint vocational school district on the Ohio Department of Education's website: http://www.ode.state.oh.us As of June, 2005 the specific location on ODE's website is: http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=990&Content=24946			
4.	Vouch expenditures charged to the Reserve during the year for compliance with Ohio Admin Code § 3301-92-01 (G):			
a.	Allowable: textbooks, instructional materials, instructional supplies, instructional software, equipment directly associated with student instruction.			
b.	Unallowable: uses not directly associated with student instruction, such as, employee labor cost, purchased services (except computer maintenance), facilities maintenance, and administrative items.			

²⁷ The percentage is set at 3% by statute, though the Auditor of State has been given some discretion to establish alternate percentages. As of the date of this document no alternative percentage has been established.

²⁸ *Formula amount* is the base cost per pupil as determined by Ohio Rev. Code Sections 3317.02 and .012. For FY 2004, the amount is \$5058. For FY '05, the amount is \$5,169.

²⁹ *Student population* is a defined term. The Ohio Department of Education is responsible for calculating the student population based on information submitted by the district (3315.17(F)).

Audit Program - A
AUDITING THE TEXTBOOKS AND INSTRUCTIONAL MATERIAL RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
5.	Trace “offsets” to appropriate documentation supporting the client’s calculations and assertions and to and from the current year working papers:			
a.	Permanent improvement levy authorized by Ohio Rev. Code § 5705.21 to the extent the proceeds are restricted by the district Board to expenditure for textbooks, instructional software, and instructional materials, supplies and equipment			
b.	Proceeds of securities whose use is restricted to expenditures for textbooks, instructional software, and instructional materials, supplies and equipment.			
c.	Proceeds of school district income tax levied under Ohio Rev. Code Chapter 5748 for permanent improvements, to the extent the proceeds are restricted to expenditures for textbooks, instructional materials, supplies and equipment.			
d.	Amount received for textbooks and instructional materials under section 50.16 of H.B. 215 of the 122nd General Assembly (textbook subsidy).			
e.	Other revenue source identified by the Auditor of State, in consultation with the Department of Education, in rules adopted by the Auditor of State ³⁰ .			
f.	Expenditures in excess of current year or accumulated set-aside requirements in the textbooks and instructional materials set-aside may be carried forward to offset future years’ textbooks and instructional materials set-aside requirements. Actual cash balances in excess of required set-asides may also be carried forward to offset future year(s) textbook and instructional materials set-aside requirements.			
6.	Read any other information included in the report (e.g., the introductory and statistical sections of a CAFR), and determine whether it is consistent with the note. If the information is materially inconsistent or misstated, consult with Accounting & Auditing Support if the client refuses to make necessary changes.			
7.	Prepare a brief narrative for the working papers that describes the nature, timing, and extent of our tests of the reserve.			

³⁰ As of the date of this audit program, the AOS has identified no such revenues.

Audit Program – B
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

If the district elected to apply the pre SB 345 base calculation, use Audit Program E.

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
1.	Testing note accuracy.			
a.	Foot and crossfoot the note			
b.	Foot and crossfoot the client’s underlying calculations (if any).			
2.	Trace beginning of the year balance to prior audited financial statements or working papers.			
3.	Test the annual reserve calculation by multiplying the percentage ³¹ by the “formula amount” ³² and multiplying the result by the district’s “student population” ³³ . The preceding year’s “formula amount” and “student population” should be used for this calculation: [(% x Formula Amount) x Student Population]			
a.	This information is available for each school district and joint vocational school district on the Ohio Department of Education’s website: http://www.ode.state.oh.us As of June 2005 the specific location on ODE’s website is: http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=990&Content=24946			
4.	Vouch expenditures charged to the Reserve during the year for compliance with Ohio Admin Code § 3301-92-02 (G):			
a.	Allowable: acquisition price; direct materials; labor and overhead for a qualifying project; project professional fees; site prep; demolition\removal of existing assets; freight and handling; capital lease principal.			
b.	Unallowable: expenditures not for acquisition, replacement, enhancement, maintenance and repair of permanent improvements (property, asset, or improvements with a useful life of 5 years or more).			

³¹ The percentage is set at 3% by statute, though the Auditor of State has been given some discretion to establish alternate percentages. As of the date of this document no alternative percentage has been established.

³² *Formula amount* is the base cost per pupil as determined by Ohio Rev. Code Sections 3317.02 and .012. For FY 2004, the amount is \$5058. For FY '05, the amount is \$5,169.

³³ *Student population* is a defined term. The Ohio Department of Education is responsible for calculating the student population based on information submitted by the district (3315.17(F)).

Audit Program – B
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
5.	Trace “offsets” to appropriate documentation supporting the client’s calculations and assertions and to and from the current year’s working papers:			
a.	Permanent improvement levy authorized by Ohio Rev. Code §5705.21 to the extent the proceeds are restricted by the district Board to expenditure for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements			
b.	Proceeds of securities whose use is restricted to expenditures for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements. ³⁴			
c.	Insurance proceeds received as a result of the damage to or theft or destruction of a permanent improvement to the extent a Board of Education places the proceeds in a separate fund for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements			
d.	Proceeds received from the sale of a permanent improvement to the extent the proceeds are paid into a separate fund for the construction or acquisition of permanent improvements			
e.	Proceeds received from a tax levy authorized by Ohio Rev. Code §3318.06 to the extent the proceeds are available to be used for the maintenance of capital facilities. (Classroom facilities)			
f.	Proceeds of certificates of participation issued as a part of a lease-purchase agreement entered into under Ohio Rev. Code Section 3313.375.			
g.	Proceeds received from the sale of a permanent improvement to the extent the proceeds are paid into a separate fund for the construction or acquisition of permanent improvements.			

³⁴ Actual capital expenditures in excess of current year or accumulated set-aside requirements from bond or note proceeds in the capital improvements and maintenance reserve - OR - the proceeds from the related permanent improvement levy or other levy to pay the debt - may be carried forward to offset future years’ capital improvements and maintenance reserve set-aside requirements. Actual cash balances in excess of required set-asides may also be carried forward to offset future year(s) set-aside requirements.

Audit Program – B
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
h.	Proceeds of any school district income tax levied under Ohio Rev. Code Chapter 5748 to the extent the proceeds are available for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements.			
i.	Money transferred from the general fund (USAS 001) to the permanent improvement fund (USAS 003) [note: expenditures from the PI fund related to these transfers do not then count as an offset or as allowable reserve expenditures].			
j.	Other revenue source identified by the Auditor of State, in consultation with the Department of Education, in rules adopted by the Auditor of State ³⁵ .			
6.	Read any other information included in the report (e.g., the introductory and statistical sections of a CAFR), and determine whether it is consistent with the note. If the information is materially inconsistent or misstated, consult with Accounting & Auditing Support if the client refuses to make necessary changes.			
7.	Prepare a brief narrative for the working papers that describes the nature, timing, and extent of our tests of the note.			

³⁵ As of the date of this audit program the AOS has identified no such revenues.

Audit Program - D³⁶
AUDITING THE TEXTBOOKS AND INSTRUCTIONAL MATERIAL RESERVE

Use this audit program if the district has elected to apply the pre SB 345 base calculation as discussed in Ohio Compliance Supplement section 1-15

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
1.	Testing note accuracy.			
a.	Foot and crossfoot the note.			
b.	Foot and crossfoot the client's underlying calculations, including the current year required set-aside percentage (3%) times the base.			
2.	Trace beginning of the year balance to prior audited financial statements or working papers.			
3.	Trace cash-basis property tax revenue (Ohio Rev. Code Chapter 5705 amounts) to the client's calculations and to and from the prior-year working papers (determine that all audit adjustments and reclassification entries which the auditee agreed to post are properly reflected in the papers) or to other acceptable documentation, such as County Auditor Tax Settlement Sheets:			
a.	General fund property tax amounts			
b.	Emergency levy fund property tax amounts			
c.	Operating revenue from a multi-purpose property tax levy			
d.	Inside millage allocated to a capital projects fund			
e.	Property tax receipts allocated to a debt service fund for general fund tax and revenue anticipation debt			
f.	Payments received in lieu of property taxes			
g.	Proceeds from the sale of delinquent tax liens			
4.	Trace cash-basis income tax revenue (Ohio Rev. Code Chapter 5748 amounts) to the client's calculations and to and from the prior-year working papers or other acceptable documentation, such as remittance advices from the State:			
a.	General fund income tax amounts			
b.	Income tax receipts allocated to a debt service fund for general fund tax and revenue anticipation debt			
c.	School district's share of city income tax based upon a development agreement			

³⁶ Audit Program C was *Auditing the Budget Reserve*. Most of this no longer applies. The steps that still apply were moved to other programs.

Audit Program - D
AUDITING THE TEXTBOOKS AND INSTRUCTIONAL MATERIAL RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
5.	Trace cash-basis formula aid (school foundation) revenue (Ohio Rev. Code §3317.022(A) [non-vocational schools] or §3317.06 [vocational schools]) to the client’s calculations and to and from the prior-year working papers or other acceptable documentation:			
a.	This information is available for each school district and joint vocational school district on the Ohio Department of Education’s website: http://www.ode.state.oh.us As of June 2005 the location on ODE’s website is: http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=990&Content=24946			
b.	For “ guarantee ” districts, use the amount from line 19 on the fiscal year 6/30/05 Form SF3 (formerly SF-12) ³⁷			
6.	Vouch expenditures charged to the Reserve during the year for compliance with Ohio Admin Code § 3301-92-01 (G):			
a.	Allowable: textbooks, instructional materials, instructional supplies, instructional software, equipment directly associated with student instruction.			
b.	Unallowable: uses not directly associated with student instruction, such as, employee labor cost, purchased services (except computer maintenance), facilities maintenance, administrative items.			
7.	Trace “offsets” to appropriate documentation supporting the client’s calculations and assertions and to and from the current year working papers:			
a.	Permanent improvement levy authorized by Ohio Rev. Code § 5705.21 to the extent the proceeds are restricted by the district Board to expenditure for textbooks, instructional software, and instructional materials, supplies and equipment			

³⁷ This amount is included in a separate column on ODE’s web site.

Audit Program - D
AUDITING THE TEXTBOOKS AND INSTRUCTIONAL MATERIAL RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
b.	Proceeds of securities whose use is restricted to expenditures for textbooks, instructional software, and instructional materials, supplies and equipment.			
c.	Proceeds of school district income tax levied under Ohio Rev. Code Chapter 5748 for permanent improvements, to the extent the proceeds are restricted to expenditures for textbooks, instructional materials, supplies and equipment.			
d.	Amount received for textbooks and instructional materials under section 50.16 of H.B. 215 of the 122nd General Assembly (textbook subsidy).			
e.	Other revenue source identified by the Auditor of State, in consultation with the Department of Education, in rules adopted by the Auditor of State ³⁸ .			
f.	Starting with the fiscal year ending June 30, 2000, expenditures in excess of current year or accumulated set-aside requirements in the textbooks and instructional materials set-aside may be carried forward to offset future years' textbooks and instructional materials set-aside requirements. Actual cash balances in excess of required set-asides may also be carried forward to offset future year(s) textbook and instructional materials set-aside requirements.			
8.	Read any other information included in the report (e.g., the introductory and statistical sections of a CAFR), and determine whether it is consistent with the note. If the information is materially inconsistent or misstated, consult with Accounting & Auditing support if the client refuses to make necessary changes.			
9.	Prepare a brief narrative for the working papers that describes the nature, timing, and extent of our tests of the reserve.			

³⁸ As of the date of this audit program no such revenues have been identified.

Audit Program – E
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

Use this audit if the district has elected to apply the pre SB 345 base calculation
as discussed in Ohio Compliance Supplement section 1-15

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
1.	Testing note accuracy.			
a.	Foot and crossfoot the note			
b.	Foot and crossfoot the client’s underlying calculations, including the current year required set-aside percentage (3%) times the base.			
2.	Trace beginning of the year balance to prior audited financial statements or working papers.			
3.	Trace cash-basis property tax revenue (Ohio Rev. Code Chapter 5705 amounts) to the client’s calculations and to and from the prior year’s working papers (determine that all audit adjustments and reclassification entries which the auditee agreed to post are properly reflected in the papers) or other acceptable documentation, such as County Auditor Tax Settlement sheets:			
a.	General fund property tax amounts			
b.	Emergency levy fund property tax amounts			
c.	Operating revenue from a multi-purpose property tax levy			
d.	Inside millage allocated to a capital projects fund			
e.	Property tax receipts allocated to a debt service fund for general fund tax and revenue anticipation debt			
f.	Payments received in lieu of property taxes			
g.	Proceeds from the sale of delinquent property tax liens			
4.	Trace cash-basis income tax revenue (Ohio Rev. Code Chapter 5748 amounts) to the client’s calculations and to and from the prior year’s working papers or other acceptable documentation, such as State remittance advices:			
a.	General fund income tax amounts			
b.	Income tax receipts allocated to a debt service fund for general fund tax and revenue anticipation debt			
c.	School district’s share of city income tax based upon a development agreement			

Audit Program – E
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
5.	Trace cash-basis formula aid (school foundation) revenue (Ohio Rev. Code § 3317.022(A) [non-vocational schools] or §3317.06 [vocational schools]) to the client’s calculations and to and from the prior year’s working papers or other acceptable documentation:			
a.	This information is available for each school district and joint vocational school district on the Ohio Department of Education’s website: http://www.ode.state.oh.us As of June 2005, the specific location on ODE’s website is: http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?Page=3&TopicRelationID=990&Content=24946			
b.	For “guarantee” districts, use the amount from line 19 on the fiscal year 6/30/05 Form SF3 (formerly SF-12) ³⁹ .			
6.	Vouch expenditures charged to the Reserve during the year for compliance with Ohio Admin Code § 3301-92-02 (G):			
a.	Allowable: acquisition price; direct materials; labor and overhead for a qualifying project; project professional fees; site prep; demolition\removal of existing assets; freight and handling; capital lease principal.			
b.	Unallowable: expenditures not for acquisition, replacement, enhancement, maintenance and repair of permanent improvements (property, asset, or improvements with a useful life of 5 years or more).			

³⁹ This amount is included in a separate column on ODE’s web site.

Audit Program – E
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
7.	Trace “offsets” to appropriate documentation supporting the client’s calculations and assertions and to and from the current year’s working papers:			
a.	Permanent improvement levy authorized by Ohio Rev. Code §5705.21 to the extent the proceeds are restricted by the district Board to expenditure for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements			
b.	Proceeds of securities whose use is restricted to expenditures for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements. ⁴⁰			
c.	Insurance proceeds received as a result of the damage to or theft or destruction of a permanent improvement to the extent a Board of Education places the proceeds in a separate fund for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements			
d.	Proceeds received from the sale of a permanent improvement to the extent the proceeds are paid into a separate fund for the construction or acquisition of permanent improvements			
e.	Proceeds received from a tax levy authorized by Ohio Rev. Code §3318.06 to the extent the proceeds are available to be used for the maintenance of capital facilities. (Classroom facilities)			
f.	Proceeds of certificates of participation issued as a part of a lease-purchase agreement entered into under Ohio Rev. Code Section 3313.375.			
g.	Proceeds received from the sale of a permanent improvement to the extent the proceeds are paid into a separate fund for the construction or acquisition of permanent improvements.			

⁴⁰ Actual capital expenditures in excess of current year or accumulated set-aside requirements from bond or note proceeds in the capital improvements and maintenance reserve - OR - the proceeds from the related permanent improvement levy or other levy to pay the debt - may be carried forward to offset future years’ capital improvements and maintenance reserve set-aside requirements. Actual cash balances in excess of required set-asides may also be carried forward to offset future year(s) set-aside requirements.

Audit Program – E
AUDITING THE CAPITAL IMPROVEMENTS AND MAINTENANCE RESERVE

Step No.	Procedure for Consideration	Done By or N/A	Date Comp.	X- ref
h.	Proceeds of any school district income tax levied under Ohio Rev. Code Chapter 5748 to the extent the proceeds are available for the acquisition, replacement, enhancement, maintenance, or repair of permanent improvements.			
i.	Money transferred from the general fund (USAS 001) to the permanent improvement fund (USAS 003) [note: expenditures from the PI fund related to these transfers do not then count as an offset or as allowable reserve expenditures].			
j.	Other revenue source identified by the Auditor of State, in consultation with the Department of Education, in rules adopted by the Auditor of State ⁴¹ .			
8.	Read any other information included in the report (e.g., the introductory and statistical sections of a CAFR), and determine whether it is consistent with the note. If the information is materially inconsistent or misstated, consult with Accounting & Auditing Support if the client refuses to make necessary changes.			
9.	Prepare a brief narrative for the working papers that describes the nature, timing, and extent of our tests of the note.			

⁴¹ As of the date of the 2005 OCS’ issuance, the AOS has identified no such revenues.

1-16 Compliance Requirement: Ohio Rev. Code Sections 3316.03, and 3316.031 - School fiscal caution, fiscal watch and fiscal emergency.

Summary of Requirements:

A **fiscal watch** *shall* be declared if any of the following conditions are met:

- (1)(a) An operating deficit has been certified for the current fiscal year by the Auditor of State and the deficit exceeds 8% of the school district's general fund revenue for the preceding fiscal year (such a certification would be prompted by a resolution of the board of education or by a request from the state superintendent of public instruction [Ohio Rev. Code 3313.483]; and
- (b) There was not a vote in favor of levying a tax that could possibly cause (a) above to no longer apply.

OR

- (2) The school district has outstanding debt securities [issued under Ohio Rev. Code § 3316.06(A)(4)] and the financial planning and supervision commission has been canceled [under Ohio Rev. Code 3316.16] (this situation deals with a down grade to fiscal watch from fiscal emergency).

OR

- (3)(a) The superintendent of public instruction has declared the district to be under fiscal caution [under Ohio Rev. Code § 3316.031] and determined the declaration of a state of fiscal watch necessary to prevent further fiscal decline; and

The Auditor of State determines that the decision of the superintendent is reasonable.

A **fiscal watch** *may* be declared if all of the following conditions are met:

- (1) An operating deficit has been certified for the current fiscal year by the Auditor of State and the deficit exceeds 2%, but does not exceed 8%, of the school district's general fund revenue for the preceding fiscal year; and
- (2) There was not a vote in favor of levying a tax that could possibly cause (1) above to no longer apply; and
- (3) The Auditor of State determines there is no reasonable cause for the deficit or that the declaration of fiscal watch is necessary to prevent further fiscal decline.

Summary of Requirements (continued):

A **fiscal emergency** *shall* be declared if any of the following conditions are met:

- (1)(a) A certified operating deficit exceeds 15% of the general fund revenue for the preceding fiscal year (such a certification would be prompted by a resolution of the board of education or by a request from the state superintendent of public instruction [Ohio Rev. Code § 3313.483]; and
- (b) There was not a vote in favor of levying a tax that could possibly cause (a) above to no longer apply.

OR

- (2) The school district board fails to submit a plan acceptable to the state superintendent of public instruction within 120 days of being declared in a state of fiscal watch.

OR

- (3) The superintendent of public instruction has reported that the district is not materially complying with the provisions of an original or updated financial plan (related to a fiscal watch declaration) and the state superintendent has determined the declaration of a state of fiscal emergency necessary to prevent further fiscal decline.; and

The Auditor of State determines that the decision of the superintendent is reasonable.

OR

- (4) A declaration of fiscal emergency is required by division (D) of section 3316.04 of the Revised Code (that is, if the district is currently in a declared Fiscal Watch and refinances or restructures certain debt).

A **fiscal emergency** *may* be declared if all of the following conditions are met:

- (1) An operating deficit has been certified for the current fiscal year by the Auditor of State and the deficit exceeds 10%, but does not exceed 15%, of the school district's general fund revenue for the preceding fiscal year; and,
- (2) There was not a vote in favor of levying a tax that could possibly cause (1) above to no longer apply; and,
- (3) The auditor of state determines that a declaration of fiscal emergency is necessary to correct the district's financial problems and to prevent further fiscal decline.

Summary of Requirements (continued):

In addition to fiscal watch and fiscal emergency, Ohio Rev. Code § 3316.031 establishes a third category of fiscal distress called “**fiscal caution**”. In accordance with rules established under this category, the Auditor of State is responsible for referring certain deficiencies to the Ohio Department of Education. The following is ODE’s fiscal caution criteria:

Failure to correct any of the following situations could eventually lead to the Auditor of State declaring a school district to be in a state of Fiscal Watch or Fiscal Emergency.

1. When a district fails to submit or update a five-year forecast as required by section 5705.391 of the Revised Code or by Administrative Rule 3301-92-04.
2. When there is a potential current year deficit with no acceptable plan in place to avoid the projected deficit.
3. When a district notified under division (B) of section 5705.391 of the Revised Code fails to submit an acceptable plan to address a **potential future year deficit** within the timeframe allowed.
4. Whenever the Department discovers any other “fiscal practices or conditions” that could lead to a declaration of Fiscal Watch or Emergency through the examination of a school district’s five-year forecast required under division (B) of section 5705.301 of the Revised Code.
5. When the Auditor of State certifies a deficit between 2% and 8% of prior year general fund revenue and elects not to place the district in Fiscal Watch, the district must be placed in Fiscal Caution as required by section 3316.031(B)(3) of the Revised Code.
6. When the Auditor of State declares that a school district’s financial records are unauditabile.
7. When the Auditor of State reports that a district has not complied with section 5705.412 of the Revised Code by attaching a signed certificate to an appropriation measure, qualifying contract or salary schedule.
8. When the Auditor of State identifies reportable conditions, material weaknesses, direct and material legal noncompliance or management letter comments which, in the opinion of the Auditor, the aggregate effect of all such reported issues has an significant effect on the financial condition of the district.

Suggested Audit Procedures - Compliance (Substantive) Tests

<p>If the district is currently in fiscal watch or fiscal emergency review the district’s recovery plan. An effective recovery plan should identify the steps necessary for the district to take to fully recover from fiscal watch or fiscal emergency and identify target dates to achieve each component of the recovery plan. The recovery plan should be periodically updated for any changes in circumstances affecting the district. Verify that statutory requirements to follow the plan are not being violated by the district.</p> <p>While performing audit work, be alert to information relative to the current fiscal year which may suggest the district will be unable to open, or remain open, for instruction on all days set forth in its adopted school calendar, pay all obligated expenses (current year operating deficit is reasonably possible), or otherwise suggests one of the fiscal distress conditions may exist. Such information might come to the auditor’s attention while:</p> <ul style="list-style-type: none"> ➤ Reviewing minutes ➤ Making audit inquiries ➤ Reviewing audit period and current year interim financial reports ➤ Reviewing correspondence with legal counsel ➤ Reviewing the matters for attention form and draft audit report ➤ Performing other such audit procedures <p>If during audit work and based on knowledge of the district, such information does come to the auditor’s attention, the engagement chief auditor should be contacted. If after evaluation the Chief Auditor concludes there are or may be significant financial problems, the chief auditor should contact the Chief Deputy Auditor or his designee.</p> <p>Auditor of State Audit Memo 2001-09 provides additional guidance regarding fiscal caution.</p> <p>If such information comes to the attention of an IPA during an audit, contact the regional chief auditor.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Section C: Additional Public Library Requirements

The following three steps (compliance requirements 1-17 through 1-19) apply only to libraries:

1-17 Compliance Requirements: Ohio Rev. Code Section 5705.23 - Special levy for library purposes; submission to electors.

Summary of Requirements: The board of library trustees of any county, municipal corporation, school district, or township public library by a vote of two-thirds of all its members may pass a resolution indicating a desire to raise taxes outside the ten-mill limitation. The resolution declares it necessary to levy a tax for either current expenses of the library or for the construction of any specific permanent improvement or class of improvement which the board of library trustees is authorized to make or acquire and which could be included in a single bond issue.

The question of this additional tax levy is to be submitted by the taxing authority of the political subdivision to whose jurisdiction the board is subject, to the electors of the subdivision or, if the resolution so states, to the electors residing within the boundaries of the library district.

The tax levy may be in effect for any specified number of years or for a continuing period of time, as set forth in the resolution.

The library may borrow up to 50% of the total estimated proceeds of a current expense levy to be collected during the first year of the levy.

The Library may issue Anticipation Notes in an amount not to exceed 50% of the total estimated proceeds of the levy for permanent improvements to be collected in each year over the period of ten years after the issuance of such notes.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Effectiveness of Oversight Government's Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Trace resolutions to the minutes, noting that they were passed by at least two-thirds of all board members.</p> <p>Obtain a copy of the taxing authority's resolution(s) and agree it to the resolution(s) certified to it by the library trustees.</p> <p>Vouch a representative selection of expenditures made with tax levy proceeds and determine that the proceeds were being used for the purpose(s) stated in the resolution(s).</p> <p>If the library issued anticipation notes, compare the proceeds from the notes to the total anticipated proceeds of the levy. The note proceeds should not exceed 50% of the levy.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

<p>1-18 Compliance Requirement: Ohio Rev. Code Section 5705.28(B)(1) - Adoption of tax budget; school library district tax budget; estimated revenues and expenditures of departments, boards, commissions and authorities; public libraries receiving library and local government support funds.</p> <p>Summary of Requirements: Before the first day of June in each year, the board of trustees of a school library district entitled to participate in any appropriation or revenue of a school district or to have a tax proposed by the board of education of a school district shall file with the board of education of the school district a tax budget for the ensuing fiscal year. On or before the fifteenth day of July in each year, the board of education of a school district to which a school library district tax budget was submitted under this division shall adopt such tax budget on behalf of the library district, but such budget shall not be part of the school district's tax budget.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Effectiveness of Oversight Government's Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>For a school library district entitled to participate in any appropriation or revenue, or tax proposed by a board of education: Inspect documentation indicating a tax budget was submitted before June 1.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

New Requirement: SB 55
Effective January 8, 2004

1-19 Compliance Requirement: Ohio Revised Code Sections 5705.281(B) - By affirmative vote (including the affirmative vote of the county auditor), a county budget commission may waive any or all of the following requirements for a library receiving all of that county's county library and local government support fund, or that receives all of that funding distributed to libraries.

Summary of Requirements: Unless waived, school libraries must file a tax budget per 5705.28 if (1) they participate in any appropriation or revenue of a school district, or (2) if a school library proposes to have a school district's board of education propose a tax on the library's behalf.

Unless waived, a library's trustees desiring to receive county library and local government support fund money must certify to the taxing authority its estimate of revenues and expenditures. Unless waived, that taxing authority must include the full amounts the library trustees request in the taxing authority's 5705.28 tax budget of receipts and disbursements.

When the budget commission waives these requirements, the commission shall still require the library to provide information it requires related to the commission's duties.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests

Inspect documentation from the County Budget Commission that waives the requirement to file this information.

If the tax budget was waived:

1. Obtain a copy of the budget commission's correspondence notifying the subdivision of the waiver. Document the submission requirements specified in the communication.
2. Through inspection of documents, review of minutes, or similar procedures, determine whether any significant substitute requirements were met.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section D: Generic Requirements for Revenues, Funds, and Transfers

Compliance requirements 1-20 through 1-26 generally apply to a variety of local governmental units.

<p>1-20 Compliance Requirements: Ohio Rev. Code Sections 5705.02, 5705.07 and 5705.18 - Ten-mill limitation.</p> <p>Summary of Requirements: Generally, the aggregate amount of taxes that may be levied on any taxable property in any one year is not to exceed ten mills on each dollar of tax valuation. This limitation is known as the <i>ten-mill limitation</i>, or <i>inside millage</i>. The ten-mill limitation may only be exceeded (a) by a vote of the people, or (b) by a charter that provides for a higher limitation which may be levied without a vote of the people.</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files • Legislative and Management Monitoring • Effectiveness of County Budget Commission's/County Auditor's Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Inspect the tax budget for the year and determine if the ten-mill limitation was exceeded.</p> <p>If the ten-mill limitation was exceeded, inspect the document entitled <i>Resolution Accepting Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor</i>, indicating it was authorized by a vote of the people or was authorized by appropriate charter provisions. Secure copies for the permanent files, if appropriate.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

<p>1-21 Compliance Requirement: Ohio Rev. Code Section 5705.09 - Establishing funds.</p> <p>Summary of Requirements: Each subdivision must establish the following funds:</p> <ul style="list-style-type: none"> ➤ General fund; ➤ Sinking fund whenever the subdivision has outstanding bonds other than serial bonds; ➤ Bond retirement fund, for the retirement of serial bonds, notes, or certificates of indebtedness; ➤ A special fund for each special levy; ➤ A special bond fund for each bond issue; ➤ A special fund for each class of revenues derived from a source other than the general property tax, which the law requires to be used for a particular purpose; ➤ A special fund for each public utility operated by a subdivision; ➤ A trust fund for any amount received by a subdivision in trust. 		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of Effective Accounting System • Legislative and Management Monitoring • Periodic Reviews of Fund Ledgers • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Inquire of responsible officials whether the funds required have been established. During revenue tests, be alert for whether funds that should have been established pursuant to this section have been established.</p> <p>Inspect authority (e.g., board resolution) to establish the fund.</p> <p><u>Note: Establishing funds required by this ORC Section does not require AOS approval.</u></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

1-22 Compliance Requirement: Ohio Rev. Code Section 5705.10 - Distributing revenue derived from tax levies, proceeds from sale of bond issue, and proceeds from sale of permanent improvement.

Summary of Requirements:

- All revenue derived from the following must be paid into the general fund:
 - the general levy for current expense within the ten-mill limitation,
 - any general levy for current expense authorized by vote in excess of the ten-mill limitation, and from
 - sources other than the general property tax, unless its use for a particular purpose is prescribed by law
- All revenue derived from general or special levies for debt charges which is levied for the debt charges on serial bonds, notes, or certificates of indebtedness having a life less than five years, must be paid into the bond retirement fund. All such revenue which is levied for the debt charges on all other bonds, notes, or certificates of indebtedness is to be paid into the sinking fund.
- All revenue derived from a special levy is to be credited to a special fund for the purpose for which the levy was made.
- All revenue derived from a source other than the general property tax and which the law prescribes shall be used for a particular purpose is to be paid into a special fund for such purpose.
- All proceeds from the sale of public obligations or fractionalized interests in public obligations as defined in Ohio Rev. Code section 133.01, except premium and accrued interest, are to be paid into a special fund for the purpose of such issue. Any interest earned on money in the special fund may be used for the purposes for which the indebtedness was authorized or may be credited and used for an authorized fund or account. The premium and accrued interest received from such sale is to be paid into the subdivision's sinking fund or the bond retirement fund.
- If a permanent improvement of the subdivision is sold, the amount received from it may be paid into the sinking fund, the bond retirement fund, or into a special fund for the construction or acquisition of permanent improvements.
- Proceeds from the sale of a public utility are to be paid into the sinking fund or bond retirement fund to the extent necessary to provide for the retirement of the outstanding indebtedness incurred in the construction or acquisition of such utility.
- Proceeds from the sale of property other than a permanent improvement are to be paid into the fund from which such property was acquired or is maintained, or if there is no such fund, into the general fund.

Money paid into a fund must be used only for the purposes for which such fund has been established. As a result, a negative fund balance indicates that money from one fund was used to cover the expenses of another fund.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of Effective Accounting System • Periodic Reviews/Comparisons of Budgeted and Actual Revenues • Independent Inspection/Comparison of Revenues to Source Documents • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Trace a representative number of receipts from tax levies, bond issues, and sales of permanent improvements, to the funds.</p> <p>Inspect accounting ledgers or month end reports as of fiscal year end and for selected periods during the year. Determine whether significant negative fund balances existed.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

1-23 Compliance Requirement: Ohio Rev. Code Section 5705.12 - Permission to establish funds.

Summary of Requirement: In addition to the funds provided for by Ohio Rev. Code Sections 5705.09, 5705.121, 5705.13, and 5705.131 the taxing authority of a subdivision may establish other funds, with the approval of the Auditor of State. The subdivision may provide by ordinance or resolution that money derived from special sources other than the general property tax shall be paid directly into such funds.

Approval to establish a new fund is unnecessary when statutes (such as those listed above) already authorize or require it.

It is necessary to request the Auditor of State's permission to establish any fund not specifically authorized by statute or when the purpose of the fund is not identified in Ohio Rev. Code §5705.09 (A) - (H). Situations requiring Auditor of State approval include:

- When management wishes to create a new fund in order to capture additional financial information about a specific source of revenue or a specific activity;
- When the fund will account for restricted gifts or bequests that will not be held in trust; and
- When management wants to impose internal restrictions on the use of otherwise unrestricted resources.

In some circumstances, the AOS deems the use of additional funds unnecessary and will not approve the request. See AOS Bulletin 99-006 for additional information.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of Effective Accounting System • Periodic Reviews of Fund Ledgers • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		

<p>If there is evidence new funds were established during the period, trace funds' establishments to the minutes. Determine code section under which established.</p> <p>If not established under State statute, inspect Auditor of State approval letters for funds created during the current audit period.</p> <p>Read ordinances and resolutions regarding how monies derived from special sources are to be used. Trace a representative number of receipts into the funds or accounts required by the ordinances or resolutions.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

1-24 Compliance Requirements: Ohio Rev. Code Sections 5705.14, 5705.15, and 5705.16 - Transfer of funds.

Summary of Requirements: No transfer can be made from one fund of a subdivision to any other fund, except as follows: ⁴²

- The unexpended balance in a bond fund that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund from which such bonds are payable. [RC 5705.14(A)]
- The unexpended balance in any specific permanent improvement fund, other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvement, shall be transferred to the sinking fund or bond retirement fund of the subdivision. However, if such money is not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of permanent improvements, or, with the approval of the court of common pleas of the county in which such subdivision is located, to the general fund of the subdivision. [RC 5705.14(B)]
- The unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund. However, if the transfer is impossible by reason of the nonexistence of the fund to receive the transfer, the unexpended balance may be transferred to any other fund of the subdivision with the approval of the court of common pleas of the county in which such division is located. [RC 5705.14(C)]
- The unexpended balance in any special fund, other than an improvement fund, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund. [RC 5705.14(D)]
- Money may be transferred from the general fund to any other fund of the subdivision by resolution of the taxing authority. [RC 5705.14(E)]
- Moneys retained by a county in accordance with Ohio Rev. Code Section 4501.04 (auto registration distribution fund), or in accordance with Ohio Rev. Code Sections 5735.27 (gasoline excise tax fund), may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable. [RC 5705.14(F)]

⁴² GASB 2300.120 (and therefore OCBOA presentations) requires certain disclosures regarding the amounts and purposes of transfers in the notes to the financial statements.

Summary of Requirements (continued):

- Moneys retained or received by a municipal corporation under Ohio Rev. Code section 4501.04 (motor vehicle license tax), or division (A) (1) or (2) of Ohio Rev. Code section 5735.27 (motor vehicle fuel excise taxes), may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable. [RC 5705.14(G)]
- Money may be transferred from the County Mental Retardation and Developmental Disabilities general fund to the County Mental Retardation and Developmental Disabilities capital fund established under Ohio Rev. Code section 5705.091, or to any other fund created for purposes of the County Board of Mental Retardation and Developmental Disabilities so long as it is spent for the particular purpose of the transfer. An unexpended balance in an account may be transferred back to the County Mental Retardation and Developmental Disabilities general fund. Transfers shall be done by resolution of the Board of County Commissioners. [RC 5705.14(H)]
- Except in the case of transfers from the general fund, transfers can be made only by resolution of the taxing authority passed with the affirmative vote of two thirds of the members. Transfers from the general fund require a resolution passed by a simple majority of the board members (i.e., a two thirds vote is not required for general fund transfers though a resolution is required)⁴³ [RC 5705.14 & .16]

Per 5705.15 & .16: In addition to the transfers listed above, which Ohio Rev. Code Section 5705.14 authorizes, the taxing authority of any political subdivision, with the approval of the Tax Commissioner and of the Court of Common Pleas, may transfer from one fund to another any public funds under its supervision, *except* the proceeds or balances of:

- loans,
- bond issues,
- special levies for the payment of loans or bond issues,
- the proceeds or balances of funds derived from any excise tax levied by law for a specified purpose, and
- the proceeds or balances of any license fees imposed by law for a specified purpose.

⁴³ Transfers require a resolution specifying the funds to pay and receive the money. This resolution should be separate from appropriation resolutions.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none">• Policies and Procedures Manuals• Periodic Reviews/Comparisons of Budgeted and Actual Transfers• Independent Inspection/Comparison of Transfers to Source Documents• Knowledge and Training of personnel• Presence of Effective Accounting System• Legislative and Management Monitoring• Management’s identification of changes in laws and regulations• Management’s communication of changes in laws and regulations to employees		

<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>	
<p>Inspect documents authorizing transfers during the audit period and determine that transfers involving balances described below met the requirements above:</p> <ul style="list-style-type: none"> • Unexpended bond balance; • Permanent improvement balance; • Bond retirement; • Special fund; • Auto registration; • Resolution; • Municipal corporation; • Mental Retardation. <p>Determine if transfers were made that meet one or more of the <u>exceptions</u> listed above.</p> <p>Determine if any <u>significant</u> transfers were made from the proceeds or balances of:</p> <ul style="list-style-type: none"> • loans, • bond issues, • special levies for the payment of loans or bond issues, • the proceeds or balances of funds derived from any excise tax levied by law for a specified purpose, or • the proceeds or balances of any license fees imposed by law for a specified purpose. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

1-25 Compliance Requirements: Though no statutory provisions directly address inter-fund advances, the following requirements are in part derived from Ohio Rev. Code Sections: 5705.10 (restriction on the purpose for which funds may be used); 5705.14, 5705.15, and 5705.16 (transfer of funds); 5705.39 (appropriations limited to estimated resources); 5705.41 (restriction on appropriation/ expenditure of money); and 5705.36 (certification of available revenue). Auditor of State Bulletin 97-003 sets forth the requirements for inter-fund advances and provides additional guidance for recording such transactions.

Summary of Requirements: Inter-fund cash advances may be a desirable method of resolving cash flow problems without the necessity of incurring additional interest expense for short-term loans and to provide the necessary "seed" for grants that are allocated on a reimbursement basis. The intent for cash advances is to require repayment within the current or succeeding year. Inter-fund cash advances are subject to the following requirements:

- Any advance must be clearly labeled as such, and must be distinguished from a transfer. Transfers are intended to reallocate money permanently from one fund to another and may be made only as authorized in Sections 5705.14 to 5705.16 of the Revised Code. Advances, on the other hand, *temporarily* reallocate cash from one fund to another and involve an expectation of repayment;
- In order to advance cash from one fund to another, there must be statutory authority to use the money in the fund advancing the cash (the "creditor" fund) for the same purpose for which the fund receiving the cash (the "debtor" fund) was established;
- The reimbursement from the debtor fund to the creditor fund must not violate any restrictions on use of the money to be used to make the reimbursement; and
- Advances must be approved by a formal resolution of the taxing authority of the subdivision which must include:
 - A specific statement that the transaction is an advance of cash, and
 - An indication of the money (fund) from which it is expected that repayment will be made.

Summary of Requirements (Continued):Other Budgetary Considerations

The advances-out (initial loan and repayment) in the creditor (loaning) and debtor (borrowing) funds do not require appropriation as advances represent temporary allocations of resources. However, an amended official certificate of estimated resources should be obtained to reflect the reduced fund balance in the creditor fund and the increased fund balance in the debtor fund. Creditor fund appropriations must be evaluated based on the reduced estimated resources, and appropriation reductions may be required. Prior to obligation of advanced funds the debtor fund must have sufficient appropriations to cover the anticipated expenditures.

Additionally, when a cash advance is outstanding at the beginning of a fiscal year in which repayment is expected, an adjustment is required to the total resources available for expenditure in the creditor and debtor funds. The unencumbered cash balance of the creditor fund must be increased by the amount of repayment expected during the fiscal year to produce the "carryover balance available for appropriation." Similarly, the unencumbered cash balance in the debtor fund must be reduced by the amount of repayment expected during the fiscal year to produce "carryover balance available for appropriation." This adjustment is made on the "certificate of the total amount from all sources available for expenditures, and balances" filed with the County Budget Commission pursuant to Section 5705.36 of the Revised Code.

Conversion to a Transfer

If, after an advance is made, the taxing authority determines that the transaction should, in fact, be treated as a transfer (repayment is no longer expected) the following procedures should be followed:

- The necessary formal procedures for approval of the transfer should be completed including, if necessary, approval of the commissioner of tax equalization and of the court of common pleas (see ORC 5705.14, 5705.15 and 5705.16);
- The transfer should be formally recorded on the records of the subdivision; and
- The entries recording the cash advance should be reversed.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of Effective Accounting System • Independent Inspection/Comparisons of Advances and Source Documentation • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>If advance transactions occurred, review authorizing legislation and accounting records. Determine whether the advance transactions were in amounts and between accounting funds approved in the authorizing legislation.</p> <p>Based on knowledge of the entity’s operations and review of levy legislation or other appropriate documents, determine whether the creditor fund’s purpose was reasonably consistent with the debtor fund’s purpose.</p> <p>Determine whether prior period advances are outstanding. If advances have not been repaid within a reasonable period or within the period specified (if any) in the authorizing legislation, determine through inquiry of appropriate client officials when the advance will be repaid.</p> <p>If the client no longer intends for the advance to be repaid or repayment is unlikely, recommend that the client take appropriate steps to convert the advance to a transfer following the above procedures.</p> <p>If advances have been converted to transfers, determine whether the requirements summarized in Ohio Compliance Supplement Section 1-24 have been complied with.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

1-26 Compliance Requirement: Ohio Rev. Code Section 5705.13(A) - Reserve balance accounts and funds; Ohio Rev. Code Section 5705.13(B) – special revenue fund may be established to accumulate cash for paying severance payouts or salaries when the number of pay periods exceeds the usual and customary number for a year; Ohio Rev. Code Section 5705.13(C) – capital projects fund(s) may be established to accumulate resources for the acquisition, construction, or improvement of fixed assets.

Ohio Rev. Code § 5705.13(A) allows a taxing authority of a subdivision to establish, by resolution, a reserve balance account⁴⁴ for each of the three following purposes:

1. **Budget stabilization:** may be created in the general fund or in any special fund used for operating purposes and the aggregate amount reserved in the account must not exceed 5% of the fund's revenue for the preceding fiscal year. The reserve balance is excluded from the unencumbered balance when certifying available balances at year-end. The reserve for budget stabilization may be reduced or eliminated at any time by the taxing authority.
2. **Self-insurance program:** may be created in the general fund or in the internal service fund established to account for the operation of the program. The amount to be reserved must be based on sound actuarial principles and the taxing authority may rescind the reserve balance account at any time. There is no limit on the amount that may be reserved.
3. **Retrospective Ratings Plan for Workers' Compensation:** may be created in the general fund or in the internal service fund established to account for the program. The amount to be reserved must be based on sound actuarial principles and the taxing authority may rescind the reserve balance account at any time. There is no limit on the amount that may be reserved.

Ohio Rev. Code § 5705.13(B) allows a taxing authority to establish a special revenue fund to accumulate cash to pay accumulated leave, or paying or for paying salaries when the number of pay periods exceeds the usual and customary number for a year. This leave includes payments for accumulated sick leave and vacation leave, or for payments in lieu of taking compensatory time off, upon the termination of employment or retirement. Money may be transferred to this fund from any fund from which the termination or salary payments could lawfully be made. The reserve must be established by resolution or ordinance and the taxing authority may rescind the fund at any time with the accumulated resources being returned to the fund from which they came. Amounts accumulated in this fund should be reasonable based on the taxing authority's estimated liability for benefits. There is no limit on the amount that may be reserved.

⁴⁴ ORC § 5705.13 refers to these accounts as "reserve" accounts. However, for financial reporting, accounts established under ORC § 5705.13(A) should be reported as *designated* fund balance rather than *reserved*, because these accounts are established at the governing body's discretion (NCGAS1 par. 117-122).

<p>Summary of Requirements (continued):</p> <p>Ohio Rev. Code § 5705.13(C) provides that a taxing authority may create, by resolution, one or more capital projects funds to accumulate resources for the acquisition, construction, or improvement of fixed assets, including motor vehicles. Each fund must be created by ordinance or resolution. The resolution or ordinance must identify the asset(s) to be acquired, the amount needed to be accumulated, the period over which the amount will be accumulated (with a limit of ten years from the date of the resolution or ordinance), and the source of the resources. Despite ORC 5705.14 through .16, money may be transferred to the capital projects fund from any other fund that could acquire, construct or improve the fixed assets. If a contract for the fixed asset(s) has not been entered into before the ten-year period expires, the money is returned to the fund from which it was transferred or that was originally intended to receive it. The taxing authority may rescind a capital projects fund at any time with the accumulated resources being returned to the fund from which they came.</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>If reserve balance accounts have been established:</p> <ul style="list-style-type: none"> • Determine through vouching, review of minutes, and inspection of accounting ledgers and authorizing legislation, whether reserve accounts were only established in the general fund, special fund used for operating purposes or appropriate internal service fund and for permitted purposes (budget stabilization, self-insurance program, or retrospective ratings program for worker’s compensation). • Recalculate reserve percentages and inspect worksheets and accounting ledgers to determine whether the aggregate amount reserved exceeded the 5 % cap (budget stabilization account). (Testing should not be limited to year end.) • For self-insurance and worker’s compensation reserve accounts, compare amounts reserved to estimates received from the entity’s actuary. 		

<p>If a “severance payout reserve” or “capital improvement reserve” fund has been established:</p> <ul style="list-style-type: none"> • Review minutes, ordinances and resolutions to determine whether the fund has been established by resolution or ordinance. • If a capital improvement reserve fund has been established, review the authorizing legislation to determine whether the assets; amount required; accumulation period (not to exceed ten years); and source of funding have been identified. • Select a representative number of disbursement transactions from the fund. Through vouching, determine whether the transactions were only for related activities as indicated above, and in accordance with the purpose stated in the authorizing legislation. • Trace a representative number of transfers to the reserve fund and determine whether the transfers were from funds permitted to make the disbursements for which the reserve fund was established. • Determine through inspection of worksheets, ledgers and other such documents, whether records reasonably provide for the return of accumulated resources, to the fund from which they were originally transferred or the fund intended to receive them (If records do not reasonably provide for the proper return of resources, this situation would generally result in a recommendation; a noncompliance citation should not be made). • If the reserve fund was rescinded or if the ten-year period has elapsed prior to entering into a contract (capital improvement reserve fund), determine through inspection of worksheets and accounting ledgers whether the accumulated resources were returned to the fund from which they were originally transferred or the fund intended to receive them. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Section E: Additional County Requirements

The following compliance requirement only applies to counties.

<p>1-27 Compliance Requirement: Ohio Rev. Code Section 5101.144 requires that each county deposit all funds its public children services agency receives, regardless of source, into a special fund in the county treasury known as the children services fund.</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>During revenue tests, trace a representative number of children services agency receipts to the fund.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section F: Additional County Hospital Requirement

The following section applies only to county hospitals:

<p>1-28 Compliance Requirement: Ohio Rev. Code Section 339.06 - Organization of board of trustees; funds; administrator. (County Hospitals)</p> <p>Summary of Requirements: The board of county hospital trustees must submit its proposed budget for the next fiscal year to the board of county commissioners for approval, by November 1.</p> <p>If hospital tax levies, or the amount appropriated to the county hospital by the county commissioners in the annual appropriation measure for the county for the fiscal year, differ from the amount shown in the approved budget, the board of county commissioners may require the board of county hospital trustees to revise the hospital budget accordingly. If so, the board of trustees is not allowed to spend those funds until its budget for that calendar year is submitted to and approved by the board of county commissioners.</p> <p>After that, the monies may be disbursed by the board of county hospital trustees, consistent with the approved budget, on a voucher signed by signatories designated and approved by the board of county hospital trustees. [Section 339.06(B)].</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Inspect documentation indicating a proposed budget was submitted by November 1 to the board of county commissioners.</p> <p>Scan ledgers or other documents for expenditures in excess of the approved budget. Inspect vouchers for signatures of those persons designated and approved by the board of trustees.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section G: Additional College Requirements

The following section applies only to certain colleges (community colleges, state community colleges, and technical colleges; this does *not* include universities):

<p>1-29 Compliance Requirement: Ohio Rev. Code Sections 3354.10(A), 3357.10, 3358.06, and 5705.41(D) - Treasurer's fiscal certificates.</p> <p>Summary of Requirement: No orders or contracts of the boards of trustees of community college districts [Section 3354.10(A)], technical colleges [Section 3357.10], and state community colleges [Section 3358.06] involving the expenditure of money shall become effective until the treasurer certifies that funds are available.</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Search for material unrecorded liabilities and/or encumbrances. Refer to minutes and records immediately following the fiscal year cutoff date.</p> <p>Compare the date of the fiscal certificates with invoice dates, noting whether or not the certificate date precedes the invoice date.</p> <p><i>(NOTE: This audit procedure can be part of expenditure tests.)</i></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Chapter 2

CONTRACTS AND EXPENDITURES

In addition to using tax budgets and appropriations to control expenditures, there are several specific laws concerning contracts and the expenditure of public money. Some of these laws are in the Ohio Rev. Code, while others are in local governments' charters, ordinances, and resolutions. Therefore, prior to auditing these requirements, the auditor should determine what the legislative authority's powers and restrictions are in relation to contracts and expending public money.

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Section A: Statutory Municipalities

**Increased limit effective
9/26/03**

2-1 Compliance Requirements: Ohio Rev. Code Sections 715.18, 731.02, 731.12, 731.14, 731.141, 735.05, 735.051, 735.052, and 735.053, 737.03, 2921.42 - **Municipal** contracts.

Summary of Requirements: Generally, all contracts made by the legislative authority of a municipal government for material and labor which exceed \$25,000 (~~\$15,000 prior to September 26, 2003~~) are subject to competitive bidding procedures. (NOTE: This limit may not apply to some charter municipalities.) [731.14 – villages; 735.05 Cities]

Competitive bidding procedures require that a contract be entered into in writing with the lowest and best bidder after advertisement of the proposal for bids for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the municipality. (Article XVIII, Sec. 3 of the Ohio Constitution allows municipalities to deviate from these requirements by charter.)

Contracts for used equipment or supplies at a public auction or emergencies can be entered into without following competitive bidding procedures.

Contracts with qualified non-profit agencies and contracts with state departments, political subdivisions, or a regional planning commission may be authorized without bidding and advertising.

Municipalities also need not follow the bidding process where the contract involves specialized services, requiring particular skills and aptitudes, such as engineering or legal services. [State ex rel Davis v. Ferguson, 145 Ohio St. 12.]

A municipality may purchase supplies or services from another political subdivision or by contract that the Ohio Department of Administrative Services has entered into on behalf of the municipality, if the municipality can prove that it can purchase those same supplies or services from the other party upon equivalent conditions and specifications but at a lower price. If so, the municipality need not competitively bid those supplies or services. [Section 125.04.]

Ohio Rev. Code Section 731.02 (cities), 731.12 (villages), - Interest in contracts by elected officials. These sections prohibit elected officials from having any pecuniary interest in a contract or to be otherwise employed by the entity. They also provide that contracts are void unless authorized at a regular or special meeting.

Ohio Rev. Code Section 2921.42 - This section prohibits having an unlawful interest in a public contract.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists 		

<ul style="list-style-type: none"> • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Identify contract expenditures while reading the minutes, by inquiry of government personnel, and/or by scanning the disbursement records. Select contracts and related contract expenditures and determine through inspection, vouching, or other such means that:</p> <ul style="list-style-type: none"> • Contracts over <u>\$25,000</u> (\$15,000 prior to September 26, 2003), or any other local limitations, were awarded using competitive bidding procedures. Be alert for indications of bid splitting or deliberate attempts to evade bid limitations, such as successive contracts just under the bid amount. • Advertisements of the proposals for bids were made as indicated. • Documentation indicates that the lowest and best bid was accepted. • Contracts and expenditures were approved by the legislative authority in accordance with local requirements. • <u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u> <div data-bbox="212 1251 1304 1388" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> • To enhance efficiency, include testing for unresolved findings for recovery (step 2-27) with these tests. However, violations of RC 9.24 would not normally constitute material noncompliance. They would normally be management letter comments. </div> <ul style="list-style-type: none"> • Select a representative number of purchases made through another subdivision or by “piggy backing” onto a DAS contract. Determine through inspection, vouching, comparison, or other such means whether (the client is required to maintain records to demonstrate the following): <ul style="list-style-type: none"> • The purchase conditions and specifications were substantially equivalent to those through the DAS Cooperative Purchasing Program. • The purchase price was less than that available through the DAS Cooperative Purchasing Program. 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		



2-2 Compliance Requirements: Ohio Rev. Code Sections 731.16 (villages) and 735.07 (cities)---
Altering or modifying **municipal** contracts.

Summary of Requirements: When in the opinion of: (a) the legislative officers of a village, (b) the village administrator, or (c) the director of public service, it becomes necessary, in the prosecution of any work or improvement under contract, to alter or modify a contract, such alterations or modifications can only be made upon the order of these individuals.

A change order is not effective until the price to be paid for the work and material or both, under the altered or modified contract, has been agreed upon in writing and signed by these individuals and by the contractor.

Where a board of control exists, the board must approve contract modifications. [RC 735.07]

No contractor may recover anything for work or material because of any such alteration or modification unless the contract is modified as required.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests:		
<p>Compare cumulative contract expenditures with the original bid price. If these expenditures exceed the bid price, inspect the modified contract documents for signatures of the contractor and the appropriate officials (i.e., the legislative officers of a village, the village administrator, or the director of public service).</p> <p><u>If a board of control exists, determine that the board documented their approval of any modifications.</u></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

2-3 Compliance Requirement: Effective June 30, 2003, Ohio Rev. Code Section 117.16 (A); 723.52 – Force accounts – [Certain] Municipal Corporations [Cities\ Villages]. **NOTE: You should complete OCS Section 2-26 before completing this Compliance Requirement.**

Summary of Requirements: A director of public service in a city, or the legislative authority of a village, is required to estimate the costs of any “contract” for the construction, reconstruction, widening, resurfacing, or repair of a street or other public way using the Auditor of State’s force account project assessment form.

Note: the use of this form is required for contracted work pursuant to Ohio Rev Code § 723.52 and for force account projects pursuant to Ohio Rev. Code § 117.16 (A).

If the city or village has an engineer or someone performing the duties and functions of an engineer, then that person may develop the estimates.

This statute does not apply to a charter city or village pursuant to Ohio Rev. Code § 723.53.

When the estimated cost of the work exceeds \$30,000, the city or village must invite and receive competitive bids from private contractors for completing the work. However, force accounts **may** be used if the city or village rejects all bids. The force account work must be performed in compliance with the plans and specifications upon which the private contractor bids were based.

The terms “construction, reconstruction, widening, resurfacing, or repair of a street or other public way” are not defined in this Ohio Revised Code section. The city or village’s legal counsel or engineer should define these terms for the city or village. The Auditor of State will accept those definitions unless they are palpably and manifestly arbitrary or incorrect.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>The following procedures are in addition to those listed in OCS section 2-26.</p> <p>Inspect the Auditor of State’s project assessment forms prepared by the city or village and determine that work undertaken by force account for construction, reconstruction, widening, resurfacing, or repair of a street or other public way was documented to have an estimated cost of \$30,000 or less.</p>		
Audit implications (adequacy of the system and controls, and the direct and material effects of		

non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section B: Counties

2-4 Compliance Requirement: Ohio Rev. Code Section 305.30 - Responsibilities of the county administrator.

Summary of Requirements: County administrator responsibilities:

- administer policies and resolutions of the board
- supervise and direct the affairs of the county government
- attend meetings
- make recommendations to the board
- report to the board
- advise the board of the county’s financial condition
- perform additional duties determined by board resolution

Also, the county administrator shall, under the direction of the board of county commissioners, contract on behalf of the board and allow and pay claims for goods received and services rendered within limits provided by a resolution of the board. The board shall limit the ability of the county administrator to contract by specifying the type of contracts upon which the administrator may act without further resolution of the board. The county department receiving goods and services shall certify their receipt before the county administrator allows the payment of the claim.

Additionally, a county administrator can perform any or all functions conferred or incumbent upon the board of county commissioners in the case of a disaster or emergency, provided that the board, by resolution, has delegated the specific functions or all of the functions to the administrator. Ohio Rev. Code Sections 5502.21 (E) and (F) define "disaster" and "emergency."

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Read the minutes and obtain a copy of the resolution authorizing the county administrator to contract or perform other functions on behalf of the county commissioners. When testing contract compliance, inspect contracts entered into by the county administrator to determine if the administrator had authority to enter into the contract.</p> <p>When testing expenditures related to contracts entered into by the county administrator, inspect the voucher package to determine that receipt of goods was documented prior to</p>		

payment.	
Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):	

<p>Revised per HB 95, Effective 9/26/03</p>
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2-5 Compliance Requirements: Ohio Rev. Code Sections 305.27, 319.16, 307.86, and 9.37 - **County** payments to be by auditor's warrant; competitive bidding. Ohio Rev. Code Sections 307.87, 307.88, 307.91 - **County** notice and other bid procedures.

Generally, expenditures of county funds must be paid with warrants issued by the county auditor, with the approval of the county commissioners [Section 319.16]. The warrant and all information related to the presentment of the warrant may be provided electronically [Section 9.37].

Ohio Rev. Code Section 319.16 expressly includes county boards of mental health and county boards of mental retardation and developmental disabilities as agencies authorized to approve the issuance of warrants.

Competitive bidding is required for procurements exceeding \$25,000 (~~\$15,000, prior to 9/26/03~~), except where otherwise provided by law [Section 307.86].

The commissioners, by unanimous vote (defined as all three commissioners when all three are present, or two commissioners if only two are present and they constitute a quorum), can declare an emergency and waive the competitive bidding when:

- (1) the estimated cost is less than \$50,000 [Section 307.86(A)(1)], or
- (2) there is physical disaster to structures, radio communications equipment, or computers [Section 307.86(A)(2)].

A county may purchase supplies or services from another party, including another political subdivision, instead of through a contract that the Ohio Department of Administrative Services has entered into on behalf of the county, if the county can prove that it can purchase those same supplies or services from the other party upon equivalent conditions or specifications but at a lower price. If so, the county need not competitively bid those supplies or services. [Section 125.04(C)]

Ohio Rev. Code Section 305.27, - Interest in contracts by elected officials.

These sections prohibit commissioners from having any pecuniary interest in a contract or to be otherwise employed by the entity. They also provide that contracts are void unless authorized at a regular or special meeting.

Ohio Rev. Code Section 2921.42 - This section prohibits having an unlawful interest in a public contract.

Other exceptions to the competitive bidding requirement are made for:

- purchase of supplies or replacement parts for which there is a single supplier [Section 307.86(B)];
- purchases from other government agencies [Section 307.86(C)];
- purchases of public social services by the county department of jobs and family services or of program services for provision by a county board of mental retardation and developmental disabilities [Section 307.86(D)];

- purchases of criminal justice services, social services programs, family services, or workforce development activities from nonprofit corporations or associations under programs funded by the federal government or by state grants [Section 307.86(E)];
- purchases of insurance or contracts negotiated under Section 307.86(F);
- purchases of computer hardware, software or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government. [Section 307.86(G)];
- purchases of child day care for county employees [Section 307.86(H)];
- acquisition of property, including land, buildings, and other real property leased for offices, storage, or parking pursuant to 307.86 (I);
- purchase of programs or services under Section 307.86(J) for a felony delinquent , unruly youth, or status offender under the supervision of the juvenile court; and
- purchase of social services, programs, or certain ancillary services by a public children services agency for children at risk or alleged to be abused, neglected, or dependent children [Section 307.86(K)].
- Excluded from competitive bidding are expenditures for the services of an accountant, architect, attorney, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser. [Section 307.86].
- Certain acquisitions made through another entity’s purchasing program See OCS 2-22 regarding ORC 9.48.
- A county may contract for energy conservation savings pursuant to Ohio Rev. Code Section 307.041. This section provides two procurement options:
 - (1) To follow Ohio Rev. Code Sections 307.86 to 307.92 (i.e. competitively bid contracts ≥ \$25,000). [307.041(C)(1)]
 - (2) Request proposals from at least 3 vendors, after advertising the project. [307.041(C)(2)]
- Section 307.87 requires a county to advertise for once per week for at least two weeks of its intent to seek competitive bids for purchases or leases with an estimated cost exceeding \$25,000 (~~\$15,000 prior to September 26, 2003~~). The county should also maintain a copy of the bid. Section 307.88 requires that sealed bids be opened and tabulated (i.e., summarized).

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations 		

<ul style="list-style-type: none"> • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<ul style="list-style-type: none"> • When testing expenditures, determine that disbursements were made only by county warrant (or electronic transaction via the county auditor). • Identify contract expenditures while reading the minutes, by inquiry of government personnel, and/or by scanning the disbursement records. Select contracts and related contract expenditures and determine through inspection, vouching, or other such means that contracts over <u>\$25,000</u> (\$15,000 prior to September 26, 2003) were awarded using competitive bidding procedures. Be alert for indications of "bid-splitting" or deliberate attempts to evade bid limitations, such as successive contracts just under the bid amount. • For contracts selected above, determine whether advertisements of the proposals for bids were made at least once per week for two consecutive weeks, and whether bids were tabulated. • For contracts exceeding <u>\$25,000</u> (\$15,000 prior to September 26, 2003) meeting one or more of the exceptions indicated above, determine documentation exists to support expenditures as meeting those exceptions. • <u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u> <div data-bbox="212 1161 1304 1297" style="border: 1px solid black; padding: 5px;"> <ul style="list-style-type: none"> • To enhance efficiency, include testing for unresolved findings for recovery (step 2-27) with these tests. However, violations of RC 9.24 would not normally constitute material noncompliance. They would normally be management letter comments. </div>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

2-6 Compliance Requirement: Ohio Rev. Code Section 117.16(A); 5543.19 – Force accounts - Counties. **NOTE: You should complete OCS Section 2-26 before completing this Compliance Requirement.**

Summary of Requirements: A county engineer, when authorized by the county commissioners, may utilize county labor and materials when undertaking the construction, reconstruction, improvement, maintenance, or repair of **roads**.

Before undertaking force account activity for **construction or reconstruction**, including **widening and resurfacing**, of **roads**, an estimate of the cost of the road work must be compiled using the Auditor of State’s force account project assessment form. When the estimated cost of the work¹ exceeds \$30,000 per mile, the county commissioners must invite and receive competitive bids from private contractors for completing the **road** work.

*Note: § 5543.19 (A) does not explicitly require using the Auditor of State’s force account project assessment form for the **maintenance or repair** of roads. However, § 117.16(A) requires using this form for each public office that undertakes force account projects, presumably including, for counties, maintenance and repair of roads.*

A county engineer, when authorized by the county commissioners, may utilize county labor and materials when undertaking the construction, reconstruction, improvement, maintenance, or repair of **bridges and culverts**. Before undertaking force account activity, an estimate of the cost of the bridge/culvert work must be compiled using the Auditor of State’s force account project assessment form. When the estimated cost of the work¹ exceeds \$100,000, the county commissioners must invite and receive competitive bids from private contractors for completing the **bridge/culvert** work.

The terms “construction, reconstruction, widening, or resurfacing of roads”, “maintenance or repair of roads” and “construction, reconstruction, improvement, maintenance, or repair of bridges and culverts” are not defined in this Ohio Revised Code section. The county prosecutor and/or county engineer should define these terms for the county. The Auditor of State will accept those definitions unless they are palpably and manifestly arbitrary or incorrect.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in 		

¹ Any work subcontracted to private contractors may be deducted from the total cost of the project to determine if the remaining work should be bid or not.

<p>laws and regulations</p> <ul style="list-style-type: none"> • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>These procedures are in addition to those suggested in this OCS section 2-26.</p> <p>Inspect the Auditor of State’s project assessment forms prepared by the county engineer and determine that work undertaken by force account for construction, reconstruction, widening, or resurfacing of roads was documented to have an estimated cost of \$30,000 or less per mile.</p> <p>Inspect the county engineer’s project assessment forms, and determine whether they document that work undertaken by force account to construct, reconstruct, improve, maintain, or repair bridges and culverts cost an estimated \$100,000 or less.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section C: Townships

**Revised per HB 97,
Effective 10/21/03
& HB 87 effective
1/1/04**

2-7 Compliance Requirements: Ohio Rev. Code Sections 505.08, 505.101, 505.267, 505.42, 505.46, 507.11(B), 511.12, 511.13, 515.01, 5549.21, 5575.01, and ~~2000 Op Atty. Gen. No. 2000-19~~ - Township's expenditures.

Summary of Requirements: No money belonging to a township may be paid out except upon an order signed personally by at least two trustees and countersigned by the clerk. [Section 507.11(B)].

Footbridge repair: Construction, rebuilding and repair of footbridges across rivers and streams needed to access public schools may not exceed \$15,000. [Section 505.46]

Although road construction and maintenance are often the principal township services provided, general operating levy monies may not be expended for these purposes, or to purchase machinery and equipment used for road construction and maintenance. All payments must be made from the township road fund. [Section 5549.21].

Ohio Rev. Code Section 511.13, - Interest in contracts by elected officials.

These sections prohibit elected officials from having any pecuniary interest in a contract or to be otherwise employed by the entity. They also provide that contracts are void unless authorized at a regular or special meeting.

Ohio Rev. Code Section 2921.42 - This section prohibits having an unlawful interest in a public contract.

Competitive bidding is required in six circumstances:

- Purchase of materials, machinery and tools to be used in constructing, maintaining and repairing roads and culverts, where the amount involved exceeds \$25,000 (~~\$15,000 prior to September 21, 2003~~). [Section 5549.21].
- Contracts for the maintenance or repair of roads, where the amount involved exceeds \$45,000 ~~\$15,000~~ (prior to 1/1/04). In each case, the board must advertise once, not later than two weeks prior to the letting of the contract, in a newspaper published in the county and of general circulation in the township. Award must be to the lowest responsible bidder. [Section 5575.01].
- Contracts for the construction and erection of a memorial building or monument. Award must be to the lowest and best bidder after advertisement in two newspapers, published or in general circulation in the township, for a period of 30 days. [Section 511.12(B)]. Such contracts require competitive bidding only if the amount involved exceeds \$25,000 (~~\$15,000 prior to September 26, 2003~~). [Section 511.12].
- Contracts for equipment for fire protection purposes pursuant to Ohio Rev. Code Sections 505.37 to 505.42, must be awarded in accordance with the provisions of Ohio Rev. Code Sections 731.14 to 731.16. [Section 505.42]. See compliance requirement item 2-1, above.

- Contracts for street lighting systems or street lighting improvements where the cost exceeds \$25,000 (~~\$15,000 prior to September 26, 2003~~). [Section 515.01]. The bidding procedures must be in accordance with Section 515.07.
- Contracts for building modifications for energy savings pursuant to Ohio Rev. Code Section 505.264, where the estimated cost exceeds \$25,000 (~~\$15,000 prior to September 26, 2003~~), with certain exceptions. Award must be to the lowest and best bidder in accordance with the provisions of Sections 307.86 to 307.92.

Summary of Requirements (continued):

By unanimous resolution that a real and present emergency exists, trustees may enter into a contract, without bidding or advertising, for the purchase of equipment, supplies, materials or services needed to meet the emergency if the estimated cost of the contract is less than \$50,000. [Section 505.08].

Purchases from a department, agency, or political subdivision of the state, or from a regional planning commission, are exempt from competitive bidding. [Section 505.101].

A township may purchase supplies or services from another party, including another political subdivision, instead of through a contract that the Ohio Department of Administrative Services has entered into on behalf of the township, if the township can prove that it can purchase those same supplies or services from the other party upon equivalent conditions and specifications but at a lower price. If so, the township does not have to competitively bid those supplies or services. [Section 125.04].

Townships need not competitively bid acquisitions made through another entity's purchasing program See OCS 2-22, regarding ORC 9.48.

Leasing Equipment:

~~2000 Op. Atty Gen. No. 2000-19 expressed the opinion that a board of township trustees need not comply with the competitive bidding requirements of Section 5549.21 and Section 5575.01 when it leases road work equipment. However, the opinion also stated that a board of township trustees does not have authority to acquire road work equipment by means of a lease with option to purchase or installment purchase agreement (see Auditor of State Bulletin 2000-010).~~

~~This opinion applied only to leases of road work equipment. Contracts pertaining to fire equipment are governed by Sections 505.37 to 505.42, and Sections 731.14 to 731.16, as stated above.~~

Effective October 21, 2003, Ohio Rev. Code Section 5505.267 and 5549.021 (H.B. 97) expanded townships' powers, allowing them to lease or lease with an option to purchase for any purpose for which it may acquire real or personal property, including machinery, tools, trucks and other equipment used in constructing, maintaining or repairing roads:

A lease with option to purchase shall do the following:

- Transfer title to the asset to the township on or before the end of the lease.
- If the leased asset relates to road repair, construction or maintenance, the township must comply with *all* the following:
 - Make a cash down payment of at least three-twentieths (15%) of the total cost;

- Require the cash down payment to be reduced by the amount of the selling price of the used equipment if the board sells used equipment as part of the lease with option to purchase;
- Be entered into only with the lowest responsive and responsible bidder of the equipment after advertising for bids

Effective October 21, 2003, Ohio Rev. Code Sections 505.37 and 505.50 (H.B. 97) expanded the purchasing power of a board of township trustees to include the power to enter into a lease or lease with option to purchase with respect to fire and police protection and emergency police protection, respectively.

Note: Township officials possess only those powers granted by statute, and thus may disburse money only for purposes authorized by statute. Throughout the audit, the auditor should be alert to activities and expenditures for which no statutory authority exists.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ul style="list-style-type: none"> • Inspect vouchers for signatures of at least two trustees and the clerk. • Identify contract expenditures while reading the minutes, by inquiry of government personnel, and/or by scanning the disbursement records. Select contracts and related contract expenditures and determine through inspection, vouching, or other such means that contracts over the corresponding bid limits were awarded using competitive bidding procedures. Be alert for indications of "bid-splitting" or deliberate attempts to evade bid limitations, such as successive contracts just under the bid amount. • For contracts exceeding \$25,000 (\$15,000 prior to September 26, 2003), with certain exceptions that purport to meet one or more of the exceptions indicated above, (emergency purchases and purchases from a department, agency, or political subdivision of the state, or from a regional planning commission, or pursuant to Section 125.04), determine documentation exists to support expenditures meeting those exceptions. • For footbridge construction, rebuilding and repair, determine documentation exists to support the necessity of the expenditures and that the total expenditures did not 		

<p>exceed \$15,000 for any footbridge accessing a school.</p> <ul style="list-style-type: none"> • <u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u> • <u>Inspect lease agreements to determine whether the agreements were for permitted equipment. Determine whether the agreement is a lease with option to purchase or an installment purchase agreement. If it is a lease with an option to purchase, determine that the township made a down payment ≥ 15%. Determine that the township selected the lowest and best bidder.</u> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <ul style="list-style-type: none"> • To enhance efficiency, include testing for unresolved findings for recovery (step 2-27) with these tests. However, violations of RC 9.24 would not normally constitute material noncompliance. They would normally be management letter comments. </div>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

2-8 Compliance Requirement: Ohio Rev. Code Section 117.16(A); 5575.01 – Force accounts - Townships. **NOTE: You should complete OCS Section 2-26 before completing this Compliance Requirement.**

Summary of Requirements:

In the **maintenance and repair of roads** the board of township trustees may use force account labor provided the board has first caused **the county engineer** to complete the Auditor of State’s prescribed force account project assessment form.

Before undertaking the **construction or reconstruction** of a township road, the board shall cause to be made by the **county engineer** an estimate of the cost of such work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost. The Auditor of State’s interpretation of SB 82, which added § 5575.01 (C), is that the county engineer should use the Auditor of State’s force account project assessment form in estimating these costs. Note: when there is no AOS project assessment form completed, cite 5575.01(C). If neither the form nor any other type of estimate is completed, cite to both 5575.01(B) and (C)

The Auditor of State’s force account project assessment form is **not** required if the **road maintenance or repair** project’s total estimated cost is less than \$15,000 or if the **road construction or reconstruction**’s total estimated cost is less than \$5,000 per mile.

The terms **road maintenance and repair, construction, and reconstruction**, are not defined in this Ohio Revised Code section. The township’s legal counsel, and/or county engineer, along with the board, should define these terms for the township. The Auditor of State will accept those definitions unless they are palpably and manifestly arbitrary or incorrect.

Force accounts **may not** be used and bidding is required when the total estimated cost of the project for **maintenance and repair** of roads exceeds \$45,000.

Bids from private contractors should be sought when the total estimated cost of the project for **construction or reconstruction** of roads exceeds \$15,000 per mile. However, force accounts **may** be used if the board finds it in the best interest of the /public. In this case, private contractor bids must have been received, considered, and rejected, and the force account work must be performed in compliance with the plans and specifications upon which the bids were based.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in 		

<p>laws and regulations</p> <ul style="list-style-type: none"> • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>These procedures are in addition to those suggested in this OCS section 2-26.</p> <p>Inspect the estimates prepared by the county engineer and determine that work undertaken by force account was documented as less than \$15,000 for a road maintenance or repair project or less than \$5,000 per mile for a road construction or reconstruction project. If so, no Auditor of State force account project assessment form would have been required to have been completed.</p> <p>Inspect the estimates prepared by the county engineer and determine that work undertaken by force account was documented as \$45,000 or less for maintenance and repair of roads. Inspect the estimates prepared by the county engineer and determine that work undertaken by force account was documented as less than \$15,000 per mile for construction or reconstruction of roads.</p> <p>If the bids from private contractors were taken for construction or reconstruction of roads but the board used the force account anyway, determine that the board documented that the private contractor bids were received, considered, and rejected, and the board’s rationale for why using the force account approach was in the best interest of the public. Compare the force account’s documented project specifications with the plans and specifications upon which the private contractor bids were based.</p> <p><i>Note: because of the effective dates for townships, affected transactions through February 12, 2004 should be cited only for violations of the indicated bidding limits. Starting February 13, 2004, citations for failing to complete the required form for affected transactions would also be appropriate.</i></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section D: Board of Education (Schools)

<p>2-9 Compliance Requirement: Ohio Rev. Code Section 3313.33 - Board of Education (schools) conveyances and contracts.</p> <p>Summary of Requirement: The board president and treasurer shall execute any “Conveyances.” No contract is binding unless authorized at a regular or special board meeting.</p>		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Trace board approval from the minutes to the contracts or from the contracts to the minutes.</p> <p>Inspect “conveyances” for board president and treasurer signatures.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

2-10 Compliance Requirement: Ohio Rev. Code Section 3313.46, 125.04(C), and 3313.533 - **Board of Education** procedures for bidding and letting contracts.

Summary of Requirements:

- When a Board of Education determines to build, repair, enlarge, improve or demolish any school building with a cost in excess of \$ 25,000, the Board is required to:
- Prepare plans and specifications. [Section 3313.46(A)(1)].
 - Advertise for bids once a week for at least two consecutive weeks in a newspaper of general circulation in the district prior to the date specified by the Board for receiving bids. [Section 3313.46(A)(2)].
 - Open the bids at the time and place specified by the Board in the advertisement for bids. [Section 3313.46(A)(3)].

When the work bid for includes both labor and materials, the Board may require that each be separately bid or may require that they be bid as one. [Section 3313.46(A)(5)].

The award of the contract is to the lowest responsible bidder. [Section 3313.46(A)(6)].

The contract is between the board and the bidders. The board is required to approve and retain estimates and make them available to the Auditor of State upon request. [Section 3313.46(A)(7)].

If two or more bids are equal and are lower than any others, either may be accepted. However, the work is not to be divided among the bidders. [Section 3313.46(A)(8)].

When there is reason to suspect collusion among the bidders, those suspects are to be rejected. [Section 3313.46(A)(9)].

The above requirements (i.e. RC 3313.46(A)) above do not apply to:

- acquisition of educational materials used for teaching; [Section 3313.46(B)(1)]
- any item which the Board, by a two-thirds vote, determines is available and can be obtained only through a single source; [Section 3313.46(B)(2)]
- energy conservation measures, with the approval of two-thirds of the Board [Section 3313.46(B)(3)] or
- acquiring computer software or hardware for instructional purposes pursuant to Section 3313.37 (B) (4). [Section 3313.46(B)(4)].

Summary of Requirements (continued):

- A school district may purchase supplies or services from another party, including another political subdivision, instead of through a contract that the Department of Administrative Services has entered into on behalf of the school district, if the school district can prove that it can purchase those same supplies or services from the other party upon equivalent conditions and specifications but at a lower price. If so, the school district does not have to competitively bid those supplies or services. [Section 125.04(C)]
- Districts operating alternative schools which meet certain criteria are permitted to contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities. [3313.533(C)]
- When a school board contracts with a nonprofit or for-profit entity to run the school, the alternative school plan under 3313.533(B) must include the additional information 3313.533(G) describes. (See statute if this occurs.)

When a board of education determines to contract with a nonprofit or for-profit entity to operate an alternative school the board shall:

- Publish a notice of request for proposal in a newspaper of general circulation once a week for at least two consecutive weeks prior to the date specified by the board for receiving proposals. [3313.533(H)(1)]
- After the date specified for receiving proposals, evaluate the submitted proposals (which may include discussions with respondents) to understand the proposal and the qualifications of respondents. The evaluation shall concern the entity’s qualifications using factors the statute specifies. [3313.533(H)(2)]

The contract shall be awarded to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract. [3313.533 (C), (G) and (H)(4)]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ul style="list-style-type: none"> • Identify contract expenditures while reading the minutes, by inquiry of 		

government personnel, and/or by scanning the disbursement records. Select contracts and related contract expenditures and determine through inspection, vouching, or other such means that contracts over \$25,000 and contracts for the operation of alternative schools, were awarded using competitive bidding procedures. Be alert for indications of "bid-splitting" or deliberate attempts to evade bid limitations, such as successive contracts just under the bid amount.

- Inspect bid files for documentation of:
 - plans and specifications/RFP,
 - bid/RFP advertising, and
 - bid/proposal openings.
- For contracts concerning the operation of alternative schools, review ORC 3313.533 (H) and determine whether the district documented its evaluation of the respondent's qualifications.
- For contracts exceeding \$25,000 that purport to meet one or more of the exceptions indicated above (i.e., acquisition of educational materials used for teaching; any item which the Board determined was available and could be obtained only through a single source; certain energy conservation measures; acquisition of computer software or hardware for instructional purposes; and acquisitions pursuant to Section 125.04), determine documentation exists to support expenditures meeting those exceptions.
- Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.

- To enhance efficiency, include testing for unresolved findings for recovery (step 2-27) with these tests. However, violations of RC 9.24 would not normally constitute material noncompliance. They would normally be management letter comments.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

<p>Amended per HB 364 Effective 4/8/03</p>
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2-11 Compliance Requirement: Ohio Rev. Code Sections 3313.33(B), 3313.37, 3313.375, 3313.40, and 3313.41 - Acquisition of school real estate and building or other facilities, and office equipment; methods available.

Summary of Requirements: The board of education of any city, local, or exempted village school district may build, enlarge, repair and furnish school houses, purchase or lease real estate for the buildings and playgrounds or rent school rooms inside or out of the district and provide the necessary apparatus and provisions for such facilities. [Section 3313.37(A)(1)].

A governing board of an educational service center may acquire, lease or lease-purchase, or enter into a contract to purchase, lease or lease-purchase, or sell real and personal property and may construct, enlarge, repair, renovate, furnish, or equip facilities, buildings, or structures for the educational service center's purposes. The board may enter into loan agreements, including mortgages, for the acquisition of such property. [3313.37(A)(2)]

Boards of education of city, local, and exempted village school districts may acquire land by gift, devise, appropriation or purchase. Purchases can be with cash, by installment payment, with or without mortgage, lease-purchase, or lease with the option to purchase (provided that the price is to be paid over a time not exceeding 5 years and a special levy may be authorized to provide a special fund to meet future time payments). [Section 3313.37(B)(1)]

Boards may acquire "office equipment" (which includes computer hardware and software for instructional purposes) for schools, and by purchase, lease, installment payments, lease-purchase or lease with the option to purchase. If the purchase price is to be paid over a period of time, that period is limited to 5 years. [Section 3313.37(B)(4)]

Boards may also acquire the necessary equipment for maintaining facilities and land under its control by entering into lease-purchase agreements not exceeding 5 years. [3313.37(B)(5)]

Ohio Rev. Code Section 3313.33(B)- Interest in contracts by elected officials.

These sections prohibit elected officials from having any pecuniary interest in a contract or to be otherwise employed by the entity. They also provide that contracts are void unless authorized at a regular or special meeting.

Ohio Rev. Code Section 2921.42 - This section prohibits having an unlawful interest in a public contract.

Additional Lease-Purchase Options:

The board of education of a city, local exempted village, or joint vocational school district or the governing board of an educational service center or community school may enter into a lease-purchase agreement providing for the construction, enlarging, furnishing and equipping; lease; and eventual acquisition of a building or improvements to a building for any school district or educational service center purpose. [ORC Section 3313.375]

If a school district, educational service center or community school chooses to enter into a lease-

purchase agreement, the agreement must provide for a lease with a series of 1 year renewable lease terms totaling not more than thirty years. Furthermore, the agreement must state that at the end of the series of lease terms; the title to the leased property shall be vested in the school district or educational service center, provided that all obligations stated in the agreement have been satisfied. [ORC Section 3313.375]

Summary of Requirements (continued):

Additionally, any obligations under a lease-purchase agreement entered into pursuant to ORC 3313.375 shall not be considered to be net indebtedness pursuant to ORC 133.06. [ORC Section 3313.375]

Acquisition by Exchange

With a majority vote, a school district board may exchange district real property for property owned by a municipal corporation upon the mutual agreement of the school district's board and the municipal corporation's legislative authority. The exchange must be made by a conveyance executed by the president and treasurer of the school district board and the mayor and clerk of the municipal corporation, respectively [Section 3313.40].

With a majority vote, a district board may acquire new real property that it determines is needed for school purposes by either (1) exchanging other district real property that it owns in its corporate capacity or (2) by using the district property as part of or as the entire consideration for the purchase price of the new property. The acquisition or exchange must be made by a conveyance executed by the president and treasurer of the school district board. [Section 3313.41(F)]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<ul style="list-style-type: none"> • Read the board's minutes and determine if the board acquired the use of property, buildings, or office equipment, by purchase, exchange, rent/lease, or lease-purchase agreements during the audit period. Consider inquiry of management as to whether such property was acquired or such agreements were entered into. Scan expenditures for evidence that such property was acquired. • If the district or educational service center is making installment payments for office or maintenance equipment acquired pursuant to Ohio Rev. Code Section 3313.37, determine whether these payments exceed the 5-year limitation. • If the district, educational service center or community school has entered into an agreement pursuant to Ohio Rev. Code Section 3313.375, determine whether the agreement, 1) consists of a series of one year renewable lease terms, 2) has a maximum total term of thirty years, and 3) provides that title vests with the district or educational service center at the end of the series of lease terms and fulfillment of the agreement's obligations. • <u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <ul style="list-style-type: none"> • To enhance efficiency, include testing for unresolved findings for recovery (step 2-27) with these tests. However, violations of RC 9.24 would not normally constitute material noncompliance. They would normally be management letter comments. Also note that 9.24 does not apply to community schools. </div> <p>“Conventional” School Districts Only</p> <ul style="list-style-type: none"> • If the district is making installment payments for land acquired pursuant to Ohio Rev. Code Section 3313.37, determine whether these payments exceed the 5-year limitation. • If real property was acquired by exchanging real property already owned by the district (including using an exchange as partial consideration for the new real property), determine whether 1) the agreement was approved by a majority vote of the district's board, and 2) the exchange was by a conveyance signed by the board president and the treasurer. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

<p>Amended per HB 95, effective 9/26/03</p>
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2-12 Compliance Requirement: Ohio Rev. Code Chapter 3318 - **School Districts** participating in classroom facilities assistance programs.

Summary of the Program:

Background:

Several programs provide financial assistance to construct or repair classroom facilities. The School Facilities Commission (Commission) administers these programs. The most common program is the Classroom Facilities Assistance Program (CFAP). Certain classroom assistance programs established by Chapter 3318 follow the basic guidelines of the CFAP.

The Commission informed us that a school district board may elect to add to the scope of any project and separately fund a scope of work ("local initiative"), which involves improving all or part of a project the Commission funds. The school district board may request the Commission to approve the incorporation of design and construction of the local initiative into the overall project. Whenever a local initiative is interconnected with a project the commission funds, the district and the commission will execute a memorandum of understanding to specify the additional cost of the local initiative and the terms and conditions for accounting for the cost. The district must account for the local initiative in a separate fund.

The CFAP and related programs are discussed below.

CFAP Basics:

- CFAP participation is based in part on the district's relative wealth, the Commission's determination of the district's facility needs, and the time elapsed since prior CFAP participation.
- Project commencement is contingent upon the district obtaining:
 - The district's share of project costs, funded by an additional bond levy, and /or certain local resources available for such purpose [3318.084], or
 - The proceeds of a property tax/income tax levy, or a combination of both [3318.052, ORC], and
 - The Board must levy an additional maintenance tax² of at least one-half mill [Sections 3318.05 (B), 3318.06 (A)(2)(a) and (A)(3), and 3318.17 ORC], or
 - the Board may elect, to satisfy its local maintenance requirement by earmarking from the proceeds of an existing permanent improvement tax levied under Section 5705.21, ORC an amount equivalent to the amount of the additional tax described above or the District may elect to satisfy its local maintenance requirement by a combination of the half mill levy and the

² The original regulations required a ½ mill levy, all of which was remitted to the State to repay project funding received. Later regulations still required the levy (or other funding), but provided that all or a portion would be retained by the district, to be used for maintenance of project facilities. All such funding is referred to as "maintenance funding" in this OCS Section. Some districts have entered into supplemental agreements which subject the district to the amended regulations.

alternative funding source, or the district may elect to use a locally donated contribution under section 3318.084 of the Revised Code. [RC 3318.05 (B), and 3318.06 (A)(2)(b)]

- Districts are to establish a project construction fund [RC 3318.08] to account for project funding and expenditures (USAS fund 010),³ and a project maintenance fund [RC 3318.05] to account for maintenance funding and expenditures (USAS fund 034).
- ~~For agreements entered into prior to September 15, 2000, districts were required to remit all⁴ or a portion of the maintenance funding to the State depending on the district's relative wealth (the lowest ranked districts were not required to make payments). Such payments should be budgeted and appropriated in the Bond Retirement Fund (USAS 002) even though the county may have withheld property tax revenue from the district and made payment directly to the State.~~
- The maintenance fund can only be used to maintain and repair completed facilities as identified in the approved maintenance plan, including preventative maintenance, periodic repairs, and the replacement of facility components. Routine janitorial and utility costs, equipment supplies and personnel costs associated with the day-to-day housekeeping and site upkeep are not allowable expenditures. No moneys other than costs associated with the development of the preventive maintenance plan may be expended out of fund 034 prior to the approval of the maintenance plan by the Commission. The construction manager is required to initiate the process of developing the plan at least six months prior to the completion of any facility for occupancy. [Legal criteria: The maintenance plan approved by the Commission, as evidenced by a signed Commission resolution]

~~Where the CFAP agreement requires a district to remit 1/2 of the maintenance funding to the State, no such payment is required for years after September 15, 2000 (Section 6 of Am. Sub. S.B. 272).~~

CFAP Written Agreement [3318.08]:

Prior to project commencement the Commission and school district enter into a written agreement ("Project Agreement"). The Project Agreement is the contract between the district and the Commission. There can be many attachments to the Project Agreement and amendments to the Project Agreement. Some of the common attachments include schedules of the alternative funding sources for both the local portion for construction and/or the maintenance levy, and a Memorandum of Understanding (MOU) which sets forth the specific terms and conditions of the Local Initiative. The agreement and the applicable attachments, in part, will provide for the following:

- Sale and issuance of bonds or bond anticipation notes for all or a portion of the district's share of project costs (to be deposited into the district's project construction fund (USAS 010), and the transfer of approved local resources (if any) to the project construction fund.
- The funding source for project maintenance and the conditions, if any, under which a portion of maintenance funding will be paid to the State. ~~Repaying the State is no longer required. As noted above, the money one-half mill maintenance levy or an alternative funding source generates must be deposited into fund 034 and can only be used to maintain and repair~~

³ Auditor of State Bulletins 99-004, and 2001-007 include USAS accounting and legal guidance for the CFAP program. The accounting guidance still applies, but auditors should not rely on the legal guidance of those bulletins, because some of it is outdated.

⁴ The original regulations required all maintenance funding to be remitted to the State. Such payment was required regardless of relative wealth.

facilities, including preventive maintenance, periodic repairs, and replacing facility components.

- Authorization to advertise for, receive, and award construction bids for the project, subject to Commission approval. Disbursement of moneys from the district's project construction fund after receiving Commission approval.
- Documentation from the Commission will limit payments from the construction fund are restricted to: 1) professional design and administration services, 2) payments to contractors who have performed work, 3) purchases related to the Project, and 4) any transactions authorized necessary or appropriate for establishing and administering investment accounts. Occasionally, districts will receive approval from the Commission for reimbursement of items that should have been project costs. If this is the case, the District should have an approval letter on file from the Commission that should be presented to the auditor to substantiate the expenditure. All payments from fund 010 should evidence approval by the district and by the Commission, as delegated to the construction manager. Locally Funded Initiatives should not be paid from fund 010, but from another fund identified by the district.
- The Commission will pay the construction manager from the State's share of the project. (These payments should be recorded in fund 010 as receipts of the State's share and as construction expenditures. When establishing budgets for the project, these amounts should be included in estimated receipts and appropriations.)
- Disposition of any balance left in the project construction fund after completion of the project:
 - The school should transfer investment earnings attributable to its own contributions to the project to its project maintenance fund. ⁵ [3318.12(C)(1)]
 - The school should transfer investment earnings attributable to the state's contribution to the School Facilities Commission [3318.12(C)(2)]
 - Any other surplus remaining in the school district's project construction fund after the project's completion shall be transferred to the commission and the school district board in proportion to their respective contributions to the fund. [3318.12(C)(3)]

Note: There are exceptions to some of these general requirements. Auditors should review the terms of the district's project agreement, and any attachments or amendments to the agreement, to determine requirements specific to the project.

Related Programs:

Other ORC Chapter 3318 programs include the **School Building Assistance Expedited Local Partnership Program** [3318.36 and 3318.362] and the **Exceptional Needs School Facilities Assistance Program** [3318.37]. ~~The Expedited program allows districts not eligible for CFAP to start projects which will be funded/reimbursed later when the district becomes eligible for CFAP. The Expedited program allows school districts to choose to fund a distinct portion of their Facilities Master Plan through local monies prior to the time their state funding becomes available. Once a district enters CFAP they receive credit against their required local contribution for the work that was completed under the Expedited program.~~ None of the CFAP specific requirements related to the tracking and disposing of interest earnings apply to school districts participating in the Expedited Local Partnership Program. Since it is not a co-funded program, moneys related to that program should be accounted for in a fund other than fund 010. The Exceptional Needs program provides assistance to

lower wealth districts with an exceptional need for immediate classroom facilities assistance, as determined by the Commission. The program is specifically designed for replacement as opposed to expansion or renovation.

With the exception of the Expedited program identified above, these programs follow the basic CFAP requirements discussed above, though there are differences. Districts will enter into agreements with the Commission. If the district participates in these or other Chapter 3318 facility projects, auditors should review the terms of the agreement and identify those requirements which may be material. When making that determination, auditors should consider the requirements and procedures addressed in this Ohio Compliance Supplement Section for the CFAP program.

Note: Community schools may not participate in these programs, except: per RC 3318.50, a community school may obtain a classroom facilities loan guarantee from the State, for up to 15 years.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Review the project agreement between the district and Commission. Considering the requirements specific to the project, perform the following procedures (document specific requirements relevant to the following tests).</p> <p><u>Project Funding</u></p> <ol style="list-style-type: none"> 1. Scan the accounting records to determine if the proper activities are being recorded in the project activities fund (USAS 010). <u>Determine if the District is accounting for the following four revenue streams separately: (1) Local Revenue, (2) Interest on Local Funds, (3) State Revenue – aka “drawdowns”, and (4) Interest on State Revenue.</u> 2. <u>Determine if the District deposited the local funds required by the Project Agreement into fund 010 for both the original contribution and any amendments.</u> 3. Select contracts and related contract expenditures and determine through inspection, vouching, or other such means that contracts were awarded using competitive bidding procedures. 		

4. Vouch selected transactions from fund 010 for allowable cost as defined in the agreements. We are not opining on this program, so we do not require a high level of assurance. Testing high dollar transactions and scanning other selected transactions should suffice. Review the supporting documentation to determine if the expenditure was
 - a. allowed under the terms of the Project Agreement;
 - b. if it was approved by the district treasurer and the construction manager prior to payment;
 - c. if it excludes any costs for a locally funded initiative;
 - d. if the amount paid agrees with the invoice and
 - e. if it is recorded in the correct amount in the correct fund.
 - f. If the District did not use properly segregate transactions into a project construction fund (i.e., did not establish fund 010) report noncompliance accordingly.

5. Scan interfund activity in fund 010. Determine whether material transfers or advances were properly approved and/or allowable under Ohio Revised Code. If an advance is repaid out of fund 010 request the District provide the approval letter from the Commission which authorized the reimbursement.

Maintenance Funding

1. Review accounting records and related documents and determine if the proper amount of maintenance funding was posted to the project maintenance fund (USAS 034).

2. Vouch selected transactions from fund 034. We are not opining on this program, so we do not require a high level of assurance. Testing high dollar transactions and scanning other selected transactions should suffice. Determine whether expenditures were only for maintenance of the funded project facilities in accordance with the district's approved maintenance plan. (If the District did not segregate transactions related to project maintenance (i.e. did not establish fund 034), report noncompliance accordingly. As noted above, the only allowable expenditures out of fund 034 prior to the completion of the project are for the costs associated with the development of the maintenance plan.

Surplus Balance

1. If a surplus remained after project completion, inspect the district's records supporting the distribution of the surplus. Determine whether the proper amounts were returned to the Commission and transferred to the district's respective funds.

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

**Repealed,
Effective 9/26/03**

2-13 Compliance Requirement: ~~Ohio Rev. Code Section 3318.35—Permissible expenditures for School Districts participating in the Emergency Repair Program and, the required funds to account for the related activity.~~

Summary of Requirements: ~~Under this program, the Ohio School Facilities Commission distributes monies appropriated by the General Assembly for emergency school building repair to school districts beginning with those districts with an adjusted per pupil valuation less than a prescribed threshold valuation. The Commission determines and certifies to the Controlling Board for its approval the necessity of emergency repairs based on an on-site inspection of the school buildings in a school district. Any school district that receives monies under this emergency program may expend them only to repair the following items: 1) heating systems; 2) floors, roofs, and exterior doors; 3) air ducts and other air ventilation devices; 4) emergency exit or other egress passageway lighting; 5) fire alarm systems; 6) handicapped access needs; 7) sewage systems; 8) water supplies; 9) asbestos removal; 10) any other repairs to a school building that meet the requirements of the life safety code, as interpreted by the commission.~~

~~A school district receiving emergency repair monies shall establish fund 497, the Emergency School Building Repair Fund, which shall be classified as a governmental fund type, capital projects fund. A special cost center should be used for each separate grant or award of money. After receipt of moneys from the emergency school building repair program, no school district shall be eligible to receive additional moneys from the program for the following five fiscal years unless a school building in that district is damaged due to an act of God that could not have been prevented by reasonable maintenance of that building.~~

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>Obtain a copy of the approval letter from the school district treasurer and compare the amount approved by the Ohio School Facilities Commission to the amount received by the school district into fund 497.</p> <p>Vouch a representative number of expenditures from fund 497 for allowable cost as defined above. (If the District did not account for the related activity in fund 497 select the transactions from the applicable fund.)</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Updated per Temporary law effective June 28, 2002

2-14 Compliance Requirement: Ohio Rev. Code Section 3318; ~~Temporary Law; Section 7 of Senate Bill No. 102 of the 122nd General Assembly; this assistance program was re-authorized in the Capital Re-appropriations Act (Temporary Law Section 12, Senate Bill No. 245 of the 123rd General Assembly)~~ Temporary Law Section 5.01, HB 524, 124th General Assembly- Permissible expenditures for the **Big 8 School Districts** participating in the **School Building Program Assistance Limited Fund**, the required funds to account for the related activity, and the required match. The big eight school districts are as follows: Cleveland CSD, Columbus CSD, Cincinnati CSD, Toledo CSD, Youngstown CSD, Dayton CSD, Canton CSD, and Akron CSD.

Summary of Requirements: Big 8 districts can only use these funds for major renovations and repairs of school facilities. Funds are allocated to the school districts on a per-pupil basis, based on the total average daily membership of a base fiscal year. To be eligible to receive these funds, each school district must provide a 100 per cent match (i.e., the school district provides 50% of the total project cost) * from funds the Ohio School Facilities Commission approves and develop and submit a capital renovations plan for the use of state and local funds subject to approval by the Ohio School Facilities Commission. To account for grant and matching money received under this provision, recipient school districts should establish a School Building Assistance Limited Fund. This fund should be classified as a governmental fund type, capital projects fund. The fund code within the Uniform School Accounting System is 496. A special cost center should be used for each separate grant or award of money.

* Except, for any funds OSFC paid after June 28, 2002 to the following four city school districts, the state/local split should be as follows:

- Cleveland: 68%state/32% local
- Akron 59% state/41% local
- Dayton 61% state/39% local
- Toledo 77% state/23% local.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		

<p>Vouch a representative number of expenditures from fund 496 for allowable cost as defined above. (If the District did not account for the related activity in fund 496 select the transactions from the applicable fund.)</p> <p>Read the minutes of the Board of Education and trace the required match into fund 496.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

<p>2-15 Compliance Requirement: Ohio Rev. Code Section 3327.08 - School bus purchases; terms. Summary of Requirements: School boards may purchase, on an individual contract, buses and other equipment to be used for the transportation of children to and from school and other board approved functions. Boards may also purchase such items through the State Department of Education's central purchasing system. All bids are required to state that the buses, prior to delivery, will comply with Ohio Department of Education safety regulations. (According to the Legislative Service Commission, community schools are exempt from this requirement.)</p> <p>Note: Bus purchases must also comply with Ohio Rev. Code Section 3313.46 (see Ohio Compliance Supplement Section 2-10).</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Inspect bids for the safety certification.</p> <p>If buses were acquired, test per Ohio Compliance Supplement Section 2-10.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section E: Community Schools

2-16 Compliance Requirement: Although the competitive bidding procedures applicable to boards of education in ORC §3313.46 (and related sections in Chapter 153) do not apply to community schools, the sponsor (through its contract) may mandate a community school comply with these or other competitive bidding procedures. Auditors must read the contract to identify applicable competitive bidding procedures, and applicable grant requirements, if any.

Ohio Rev. Code Section 3313.33(B)- Interest in contracts by elected officials.
 These sections prohibit elected officials from having any pecuniary interest in a contract or to be otherwise employed by the entity. They also provide that contracts are void unless authorized at a regular or special meeting. This statute applies to community schools.

Ohio Rev. Code Section 2921.42 - This section prohibits having an unlawful interest in a public contract. This statute applies to community schools.

(Also note that RC 9.24, regarding unresolved findings for recovery and contracts, applies to community schools.)

[Insert applicable competitive bidding procedures.]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p><i>[Insert substantive audit procedures. See other Ohio Compliance Supplement Sections for example procedures related to bidding.]</i></p> <ul style="list-style-type: none"> • <u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <ul style="list-style-type: none"> • To enhance efficiency, include testing for unresolved findings for recovery (step 2-27) with these tests. However, violations of RC 9.24 would not normally constitute material noncompliance. They would normally be management letter </div>		

comments.	
Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):	

**New requirement per SB 2
Effective July 1, 2004**

2-17 Compliance Requirement: 3314.034(A) After June 30, 2004, internet- or computer-based community school cannot contract with a nonpublic school for instructional facility space.

Note: (1) Violations require ODE to withhold foundation payments for any students using nonpublic school facilities.

(2) ORC 3314.02(A)(7) defines Internet- or computer-based community schools as those in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods including internet-based, other computer-based, and noncomputer-based learning opportunities.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Knowledge and Training of personnel with contracting authority • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
Read internet schools’ contracts for instructional space. Determine if contracts for instructional space awarded after July 1, 2004 were with nonpublic schools.		
Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Section F: Hospitals

**307.86 Revised
per HB 95,
Effective 9/26/03**

2-18 Compliance Requirement: Ohio Rev. Code Section 339.05 - Bidding procedures and purchasing policies for supplies and equipment (**County Hospitals**).

Summary of Requirement: A board of county hospital trustees may adopt, annually, bidding procedures and purchasing policies for supplies and equipment that are routinely used in operating the hospital and that cost in excess of the amount specified in Ohio Rev. Code Section 307.86, which is \$25,000 (~~\$15,000, prior to 9/26/03~~) as the threshold above which purchases must be competitively bid.

If a board of county hospital trustees adopts such policies and procedures, and the board of county commissioners approves them, the board of county hospital trustees may follow these policies and procedures in lieu of following the competitive bidding procedures of Ohio Rev. Code Sections 307.86 to 307.92.

Ohio Rev. Code Section 2921.42 - This section prohibits having an unlawful interest in a public contract.

(Note that RC 9.24 regarding unresolved findings for recovery and contracts does not apply to hospitals.)

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>By inquiry or reading the minutes, determine if the board of hospital trustees has adopted its own policies and procedures for competitive bidding. If so, trace approval of those policies by the board of county commissioners to an approval letter or to a notation in the minutes.</p> <p>For expenditures over the policy limit, inspect bid files to determine if the policies and</p>		

<p>procedures were being followed as required.</p> <p>If the board of hospital trustees has not adopted its own policies and procedures, see Ohio Compliance Supplement Section 2-5 for suggested audit procedures regarding competitive bidding procedures for counties.</p> <p><u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u></p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

2-19 Compliance Requirement: Ohio Rev. Code Sections 749.26, 749.27, 749.28, 749.29, 749.30 and 749.31- Contract procedures; bids; bonds; bid openings (**Municipal Hospitals**).

Summary of Requirements: The board of hospital trustees, before contracting to erect a hospital building, or to rebuild or repair a hospital building, the cost of which exceeds \$10,000, must have plans, specifications, detailed drawings, and forms of bids prepared. These must be printed for distribution among the bidders. [Section 749.26].

All contracts must be made in the name of the board of hospital trustees. Contractors may not execute any extra work or make any modifications or alterations in the specifications and plans, unless ordered in writing by the board. Contractors may not claim any additional compensation unless such written order is given, and the additional compensation fixed and agreed upon. Copies of the plans and drawings, attested by the contractor, and the original bids, specifications, and contracts are required to be deposited in the office of the clerk of the municipal corporation. [Section 749.27].

The board of hospital trustees can not enter into a contract for work or supplies where the estimated cost exceeds \$10,000, without first giving 30 days notice in one newspaper of general circulation in the municipal corporation that sealed proposals will be received for doing the work or furnishing the materials and supplies. [Section 749.28].

Each bid submitted under Ohio Rev. Code Section 749.28 for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement is required to meet the requirements of Ohio Rev. Code Section 153.54 regarding bid guaranty. Each bid submitted under Ohio Rev. Code Section 749.28 for any other contract must be accompanied with a bond, signed by sufficient sureties, for acceptance of the contract if awarded by the board of hospital trustees, to fully secure any difference between the amount of such bid and the next higher bid. That amount is to be collected by the board and paid into the hospital fund in case of the refusal by the bidder to enter into a contract according to its bid within such reasonable time as the board determines. [Section 749.29].

Each bid submitted under Ohio Rev. Code Section 749.28 is required to be enclosed in a sealed envelope and deposited with the clerk of the board of hospital trustees. The envelope should indicate the nature of the bid. All bids are required to be opened at the time, date, and place specified in the notice to bidders or specifications. The time, date, and place of the bid openings may be extended to a later date by the board of hospital trustees, provided that written or oral notice of the change is given to all persons who have received or requested specifications no later than 96 hours prior to the original time and date fixed for the opening. [Section 749.30].

Ohio Rev. Code Section 2921.42 - Having an unlawful interest in a public contract.
This section generally prohibits unlawful interests.

(Note that RC 9.24 regarding unresolved findings for recovery and contracts does not apply to hospitals.)

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel 		

<ul style="list-style-type: none"> • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Inquire or determine from reading the minutes or other means whether any contracts were entered into during the period exceeding \$10,000. Inspect bid files and other related documentation to determine that:</p> <ul style="list-style-type: none"> • Plans, specifications, and detailed drawings are printed and distributed to bidders for the erection, rebuilding or repair of a hospital building. • The contracts are made in the name of the board of hospital trustees and stipulate in the contract that the contractor will not execute any extra work or make any modifications or alterations in the work specifications and plans unless ordered in writing by the board. • Copies of plans and drawings and the original bids, specifications and contracts are on file in the office of the clerk. • Thirty days' notice was given in one newspaper of general circulation in the municipal corporation that sealed proposals will be received. • Bid guaranties and/or bonds were received with the proposals from contractors. • Bids were enclosed in sealed envelopes and opened by the municipal clerk at the time, date, and place specified in the notice to bidders. • The lowest and best bid was accepted (unless bond is considered inadequate by the board). <p><u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section G: Colleges and Universities

2-20 Compliance Requirement: Ohio Rev. Code Sections 9.312, 3354.16, 3355.12, 3357.16, and 3358.10 - Bidding required on improvement contracts.

Summary of Requirements: When the board of trustees of a community college [Section 3354.16(A), university branch [Section 3355.12(A)], technical college [Section 3357.16(A)], or state community college district [Section 3358.10] resolves to contract for improvements exceeding \$50,000,⁶ the college must advertise for bids once a week for 3 consecutive weeks, in at least one newspaper of general circulation within the college district where the work is to be done.

The board of trustees of the college district may contract with the lowest responsive and responsible bidder.

On January 1, of every even-numbered year, the chancellor of the Board of Regents must adjust the contract limit as provided for in Sections 3354.16(B) for community college districts, 3355.12(B) for university branch districts, 3357.16(B) for technical colleges and 3358.10 for state community colleges. The new limits are stated above.

These types of colleges may solicit separate or combined bids and to award separate or combined contracts for each distinct branch or class of work. These contracts do not require bidding if the estimated cost is less than \$5,000.

A bidder on the contract is considered responsive if his proposal responds to bid specifications in all material respects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. The factors that the college must consider in determining whether a bidder on the contract is responsible include the experience of the bidder, and its financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the contract properly.

An apparent low bidder found not to be responsive and responsible is to be notified by the college of the finding and the reasons for it. The notification is given in writing and by certified mail. [Section 9.312(A)].

When the contract is awarded to a bidder other than the apparent low bidder or bidders, the institution is required to meet with the apparent low bidder or bidders upon filing of a timely written protest. The protest must be received within 5 days of the notification required above. No final award can be made until the institution either affirms or reverses its earlier determination. [Section 9.312(B)].

Ohio Rev. Code Section 2921.42 - Having an unlawful interest in a public contract.
This section generally prohibits unlawful interests.

(Note that RC 9.24 regarding unresolved findings for recovery and contracts applies to state colleges

⁶ Each of these statutes requires the Board of Regents to increase this amount every other January 1, based on increases in the U.S. Bureau of Census price deflator for construction. The Board of Regents informed us that because the Bureau of Census no longer issues this information, the Board of Regents has not increased this threshold. The Board is proposing a legislative revision to this statute.

and universities, but does not apply to technical colleges.)		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Inquire or determine through other means such as reading the minutes or performing analytical procedures whether contracts for improvements were awarded during the fiscal period. Inspect contracts, bid files, and related documentation that:</p> <ul style="list-style-type: none"> • Contracts over the amounts indicated above were awarded using competitive bidding procedures. • Advertisements of the proposals for bids were made. • Documentation indicates the lowest and best bid was accepted, or documents why the low bidder was not selected. • <u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u> 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section H: Libraries

**Revision per SB 55
Effective
January 8, 2004**

2-21 Compliance Requirements: Ohio Rev. Code Section 3375.41 - Procedure for bidding and letting of contracts over \$25,000 (~~\$15,000 prior to September 26, 2003~~).

Summary of Requirements: When a board of library trustees appointed pursuant to Ohio Rev. Code Sections 3375.06 (county free library), 3375.10 (township library), 3375.12 (municipal free library), 3375.15 (school library), 3375.22 (county library district), or 3375.30 (regional library district) determines to construct, demolish, alter, repair, or reconstruct a library or make any improvements or repairs which will exceed \$25,000 (~~\$15,000 prior to January 8, 2004~~) except in cases of urgent necessity or for the security and protection of library property, it must advertise for 4 weeks for sealed bids in some newspaper of general circulation in the district. If there are 2 such papers, the board advertises in both of them. If no newspaper has a general circulation in the district, the board advertises by posting the advertisement in 3 public places in the district.

Sealed bids are filed with the clerk by 12:00 noon of the last day stated in the advertisement.

The sealed bids are:

- opened at the next meeting of the board,
- publicly read by the clerk, and
- entered into the board's records.

By resolution, the board may provide for the public opening and reading of the bids by the clerk, immediately after the time for filing such bids has expired, at the usual place of meeting of the board, and for tabulating the bids. A report of the tabulation of the bids is presented to the board at its next meeting.

When both labor and materials are embraced in the work that is being bid for, the board may require that each be separately stated in the sealed bid, with each being priced, or it may require that bids be submitted without being separated.

None but the lowest responsible bid shall be accepted. The board may reject all the bids or accept any bid for both labor and material which is the lowest in total.

The contract is between the board and the bidders. The board is required to pay the contract price for the work by the times and in the amounts indicated.

When two or more bids are equal, in whole or in part, and are lower than any others, either may be accepted. However, the work is not required to be divided between these bidders.

When there is reason to believe there is collusion or combination among the bidders, the bids of those concerned in collusion or combination are required to be rejected.

<p>Ohio Rev. Code Section 2921.42 - Having an unlawful interest in a public contract. This section generally prohibits unlawful interests.</p> <p>(Note that ORC 9.24 regarding unresolved findings for recovery and contracts, does not apply to libraries.)</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Inquire or determine through other means, such as analytical procedures or reading the minutes, if contract expenditures were made during the period. If so, inspect bid files and associated documentation that:</p> <p>Expenditures over <u>\$25,000</u> (\$15,000 prior to January 8, 2004) were supported by contracts awarded in compliance with competitive bidding requirements (except in emergencies).</p> <p>Advertisements of the proposals for bids were made.</p> <p>Procedures used for opening bids were in agreement with those required (i.e., opened at the next meeting of the board, publicly read by the clerk, and entered into the board's records).</p> <p>Adequate documentation is on file to support the board's decisions to select the lowest responsible bid as well as reject any bids.</p> <p><u>Document whether there is any apparent interest in the contract by a public official. Due to heightened public interest in these situations, we would often deem violations to be material noncompliance and could affect our assessment of the control environment and affect our fraud assessment in the FRAQ.</u></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section I: General

**Amended per HB 204,
Effective 11/05/04**

2-22 Compliance Requirement: Ohio Rev. Code Section 9.48 - Joint contracting and purchasing programs for **counties** and **townships**.

Summary of Requirements: A county or township may permit one or more other counties or townships to participate in contracts into which it has entered to acquire equipment, materials, supplies, or services, and may charge such participant(s) a reasonable fee to cover any additional costs incurred as a result of their participation. [RC 9.48(A)(1)]

A county or township may participate in a joint purchasing program operated by or through a national or state association of political subdivisions for which they are eligible for membership. [RC 9.48(A)(2)]

A county or township may also participate in a contract the Federal government offers, including those the Federal General Services Administration offers.⁷ [9.48(A)(3)]

Purchases under another entity’s contract are exempt from a county or township’s competitive bidding procedures if the other entity awarded the contract pursuant to a publicly-solicited request for proposals or competitive selection procedure. No county or township shall participate in a joint purchasing contract if it has already received bids for such acquisition unless participation enables it to make the acquisition at a lower price. [RC 9.48(B)]

A county or township eligible to participate in a national or state association’s joint purchasing program may acquire supplies and services from another entity or subdivision without competitive bidding, if (1) the county or township can purchase those supplies and services from the other party upon equivalent terms and specifications and (2) if acquired at a lower price than the association’s contracts. The county or township must maintain documentation it satisfied conditions (1) and (2). [9.48(C)]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in 		

⁷ For information about the General Services Administration, see www.gsa.gov

<p>laws and regulations</p> <ul style="list-style-type: none"> • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>By reading the minutes, scanning disbursements, and inquiry, determine if the county or township has entered into joint contracting or purchasing programs.</p> <p>For joint contracts, based on your reading of the minutes, determine if the entity did not competitively bid the project, or documented that the joint acquisition price was lower than the bids received.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

2-23 Compliance Requirements: Ohio Rev. Code Sections 153.50, 153.51, and 153.52 - Separate bids and contracts required for each class of work on buildings and other structures.

Summary of Requirements: When a project is to be contracted out, the entity required to bid such project may group the work to be done into the specifically listed classes below before drawing up the bid specifications. Allowing them to group certain types of work into one bid streamlines the bidding procedure and is a change from the requirement that each separate kind of mechanical labor or employment or business be bid separately.

The separate classes are: plumbing and gas fitting; steam and hot water heating; ventilating apparatus; steam power plant; and electrical equipment; if the estimated cost of such branch or class of work exceeds \$5,000 [153.50].

In the situation, however, where an entity is able to bid the entire project in one bid and that bid is lower than the bids are if separately bid by branches or classes, the entity may then bid the project as one single bid. The entity may also bid groups or branches together, but not encompassing the whole project, if the aggregate of the bids is lower than the total sum of the individual bids for the classes or branches included in the single bid. Finally, if bidding the project by classes or groups does not allow the entity to include all the work required into the bids, and grouping classes or groups together would allow the entity to do so, the entity may then aggregate the classes or branches together into a single bid that would allow them to bid out the work required by the project but not otherwise included in the bidding process.

The contract must be awarded to the lowest and best separate bidder.

The contract must be made directly with the bidder(s) upon the terms, conditions, and limitations of the bid.

The above requirements do not apply to the erection of buildings and other structures which cost less than \$50,000. When an entity is to bid a project, the cost of which is greater than \$50,000, it shall require separate and distinct bids to be made for each of the following branches or classes of work to be performed if the estimated cost for that branch or class is \$5,000 or more: (1) plumbing and gas fitting; (2) steam and hot-water heating, ventilating apparatus and steam-power plant; (3) electrical equipment.

Multiple branches or classes may not be combined unless the separate bids do not cover all the work and materials required or the bids are lower than the separate bids in the aggregate. Also, the public authority to whom a contract is awarded may assign any or all of its interest in the contract as long as it is agreed to in the award of the contract.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Read bids and contracts for erection, repair, alteration, improvement, and rebuilding of public buildings, bridges, and culverts and determine that:</p> <p>The government documented the classification structure for the bid requests in a manner that supports that the government was likely to receive the lowest possible combined or separate bids for the work;</p> <p>The contract was awarded to the lowest and best separate bidder;</p> <p>The contract was made directly with the contractor(s) upon the terms, conditions, and limitations of the bid.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

2-24 Compliance Requirements: Ohio Rev. Code Sections 4115.04 and 4115.05 - Prevailing wage rates in public works contracts.⁸

Summary of Requirements: The prevailing wage laws essentially require an entity to obtain the prevailing wages in their area for the types of labor required to complete the project, prior to bidding and again when the contract is awarded, if the award is made more than 90 days after the original prevailing wage is determined. They then need to make sure that the contractors who are awarded the contracts agree, in the contract, to pay the prevailing wage.

- Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the State director of Commerce determine the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Revised Code for the class of work called for by the public improvement, in the locality where the work is to be performed. Such schedule of wages shall be attached to and made part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. [4115.04(A)]
- "Construction" means either of the following:
 - (1) Any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than fifty thousand dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority; [4115.03(B)(1)]⁹
 - (2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority. [4115.03(B)(2)]³

⁸ Bidding and prevailing wage requirements are independent of each other. A threshold dollar amount must first be met before prevailing wage requirements apply. It is possible to meet the bidding threshold without meeting the prevailing wage threshold.

⁹ There are separate thresholds for new construction and reconstruction. ~~From January 1, 2002 through December 31, 2003, the thresholds were \$62,549 (new) and \$18,764 (reconstruction).~~ Effective January 1, 2004 through December 31, 2005, the thresholds are \$65,843 (new) and \$19,752 (reconstruction).

Summary of Requirements (continued):

The State prevailing wage requirements (Ohio Rev. Code Sections 4115.03 – 4115.16) do not apply to:

- Public improvements partially or wholly funded by the Federal government or any of its agencies (whether by grant or loan), if Federal minimum wage requirements (i.e. Davis Bacon) apply to mechanics or laborers.
- A participant in a work activity, developmental activity or an alternative work activity under ORC 5107.40 to 5107.69, when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity.
- For public improvements undertaken by boards of education or educational service centers.
- The State prevailing wage law does not apply to county hospitals if none of the construction funds, including funds to repay any amounts borrowed, have been secured by obligations pledging the full faith and credit of the State, the county, a township, or a municipal corporation, or are funds that have been generated by the levy of a tax by the State, the county, a township, or a municipal corporation [4115.04(B)].

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>Inquire if the contract is funded in whole or part by federal grant or contract. If so, perform appropriate federal audit procedures.</p> <p>Inspect contracts exceeding the threshold amounts for the required "prevailing wage" language.</p> <p>Inquire if any projects were sublet. If so, inspect the contractor's contract for language authorizing the subletting.</p> <p>Compare the date of prevailing wage establishment with the contract date. If more than 90 days elapsed between the two dates, determine that a prevailing wage redetermination was obtained by inspecting that document.</p> <p>If a county hospital has claimed the exception provided by Section 4115.04 (B), review project documents and legislation authorizing the project, make inquiries, and perform such other procedures to determine whether financing sources meet the criteria of Section 4115.04(B).</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

2-25 Compliance Requirements: Ohio Rev. Code Section 9.314, Reverse Internet auction.

Summary of Requirements:

Any political subdivision purchasing services or supplies subject to competitive bidding requirements may purchase the services or supplies by reverse auction in lieu of written proposals. [Section 9.314(B)]

A political subdivision shall solicit proposals through a request for proposals. The request for proposals shall state the relative importance of price and other evaluation factors. The political subdivision shall give notice of the request for proposals in accordance with the rules it adopts. [Section 9.314(C)]

A political subdivision may award a contract to the offeror whose proposal the political subdivision determines to be the most advantageous to the political subdivision, taking into consideration factors such as price and the evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made. [Section 9.314(E)]

The rules that a political subdivision adopts under this section may require the provision of a performance bond, or another similar form of financial security, in the amount and in the form specified in the rules. [Section 9.314(F)]

As used in this Ohio Rev. Code Section 9.314:

- **"Contracting authority"** has the same meaning as in section 307.92 of the Revised Code.
- **"Political subdivision"** means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state and also includes a contracting authority.
- **"Reverse auction"** means a purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the internet.
- **"Services"** means the furnishing of labor, time, or effort by a person, not involving the delivery of a specific end product other than a report which, if provided, is merely incidental to the required performance. "Services" does not include services furnished pursuant to employment agreements or collective bargaining agreements.
- **"Supplies"** means all property, including, but not limited to, equipment, materials, other tangible assets, and insurance, but excluding real property or interests in real property.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>If the local government has elected to use reverse internet auction in lieu of sealed competitive bidding as may be otherwise required, review the minutes and obtain related contract files and review the documentation to determine whether:</p> <ol style="list-style-type: none"> 1. The entity adopted rules governing the use of reverse internet auction and whether the entity followed significant provisions in those rules, including giving notice of the Request For Proposal (RFP) and required submission of financial security (if any). (Retain a copy of the rules (or relevant excerpts) in the working papers). 2. Proposals were made using RFPs and the RFPs included an indication of the relative importance of price and other proposal evaluation factors. 3. The contract file documents the basis on which the selected proposal was awarded. Be alert for <u>obvious</u> departures form the evaluation factors and related importance as stated in the RFP. 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

2-26 Compliance Requirement: Effective June 30, 2003 Ohio Rev. Code Sections 117.16(A); 723.52; 5543.19; 5575.01 – Force accounts.

Summary of Requirements: Certain capital construction and/or maintenance projects undertaken by counties, certain municipal corporations (cities and villages), and townships may be performed by these entities' own employees, equipment, and materials - as opposed to bidding these jobs out to private contractors - if the estimated costs of these projects are below certain statutory limits. This is what is generally meant by the term "force account".

House Bill 87, **effective June 30, 2003**, amended by SB 82 (effective **02/12/2004**, affecting these provisions for **townships** only) increased certain bid limits; required the Auditor of State to prescribe, and these entities to use, under certain circumstances, a uniform force account project assessment form; and imposed certain possible penalties for non-compliance **with the bid limits**.

Because the requirements vary by type of entity, separate subsections of this OCS section are provided for: certain municipal corporations (OCS Section 2-3); counties (OCS Section 2-6); and townships (OCS Section 2-8).

The Auditor of State's prescribed form [required by ORC 117.16(A)] for this purpose can be found at www.auditor.state.oh.us, under *Publications, Auditor's Forms*. Auditor of State Bulletin 2003-003 states an entity may use certain "safe harbor" percentages in computing its estimated costs; if the entity used these safe harbors, auditor of state auditors may accept them without further analysis. The entity may develop its own percentages for the add-ons for labor fringes and overhead costs, and materials overhead costs; the entity should present documentation to the auditor to justify these self-computed percentage add-ons.

Various terms, such as **road maintenance and repair, construction, and reconstruction**, are not defined in the Ohio Revised Code sections discussed in the individual subsections below. We indicate in each such section that the Auditor of State will accept definitions from the entity's legal counsel, and/or county engineer, as appropriate, unless the definitions are palpably and manifestly arbitrary or incorrect. *If the entity's legal counsel, and/or county engineer, as appropriate, did not define the indicated terms for the entity, indicate the same in your draft report. Consult with A&A Support and the AOS's Legal department concerning any issues involving a potential finding or citation.*

Joint projects undertaken by 2 or more of the affected entities require that the higher force account limits of the participating parties be applied [117.161]. Participating entities shall not aggregate their respective limits, and the share of each entity shall not exceed its respective force account limit. Calculating the proper project force account limits and the share thereof to each participating party should be memorialized in the contracts or other agreements between the parties. One of the participating entities shall complete the force account project form prior to proceeding by force account. An entity shall not proceed with a joint force account project if any one of them is subject to reduced force account limits under RC 117.16(C) or (D).

Note: These laws require the Auditor of State to track all published [GAGAS-level] citations and any notifications sent to affected entities starting with the audits of fiscal year 2003 and continuing at least through 2006. Please note on the audit executive summaries if you have citations in the GAGAS report or if you have recommended that the Auditor of State send the

entity [or the State Tax Commissioner] the communication required by these changes notifying the entities of the increased force account limits.		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<p>Read the minutes, inquire of management, and scan expenditures to reasonably determine if any capital construction or maintenance activity took place during the audit period. Determine if such projects were undertaken using force accounts. If so, proceed to the sub-section of this OCS section that discusses the requirements for the type of auditee.</p> <p>If such projects were undertaken, inspect a representative number of the entity’s completed Auditor of State Uniform Force Account Project Assessment forms. Trace wage rates, etc. to entity supporting documentation on a test basis. <i>Note: each affected entity type has differing requirements for using these forms. See OCS Section 2-3 for certain municipal corporations; OCS Section 2-6 for counties; and OCS Section 2-8 for townships.</i></p> <p>Determine if the entity used the “safe harbor” percentages described in Bulletin 2003 – 003. Recompute items on the form or scan the form for reasonableness. If the entity used its own labor fringes or overhead rates, or materials overhead rates, obtain supporting documentation and review for reasonableness.</p> <p>Compare the actual projects’ costs with the project assessment form estimates. Inquire of management for reasons for any apparent excessive costs compared with the project estimates. Evaluate for reasonableness of the estimates. Be alert for indications of "bid-splitting" or deliberate attempts to evade bid limitations, such as successive estimations just under the bid amount.</p> <p>Whether such projects have been undertaken or not, consider adding language to the audit management representation letter affirming or disaffirming the existence of projects subject to the applicable force account provisions.</p>		
Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Note: with “force account” provisions, it is possible to have non-compliance with the preparation of the Auditor of State form; with the bidding limits; or with both.

If the “force account” limits have been violated – that is, the county, township, or municipal corporation did the work by force account even though it should have been bid – then the Auditor of State is required to notify the entity [and possibly the State tax commissioner] of the penalty provisions. Auditors should indicate in this block of the OCS if the Auditor of State is to notify the entity\State tax commissioner of any of the penalty provisions.

Revised per OAG 2004-014 (Effective 4/15/04) and SB 189, effective 6/29/04.

Note: To enhance efficiency, consider including the tests described at the end of this step with the OCS Chapter 2 steps referenced at the end of this step. Noncompliance findings resulting from testing this would not normally be deemed material noncompliance.

2-27 Compliance Requirements: Ohio Rev. Code Section 9.24(A), (B), (D), (E), and (G); and AG Opinion 2004-014 – Unresolved findings for recovery

Summary of Requirements: No state agency and no political subdivision¹⁰ receiving more than \$50,000 in state funds in a fiscal year (per OAG 2004-014) shall award a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person [this section defines “person” as an individual, corporation,¹¹ business trust, partnership, and association; see Ohio Rev. Code Section 1.59] against whom a finding for recovery has been issued by the auditor of state, if the finding for recovery is unresolved. (Ohio Rev. Code Section 9.24(A))

AG Opinion 2004-014 and Senate Bill 189 provided the following definitions which are further discussed in AOS Bulletin 2004-006:

Per OAG 2004-014, the term “contract” only applies to contracts requiring a competitive contracting process. This does not include employment contracts, ODAS state term purchases, or transactions made via other means such as purchase orders, credit cards, debit cards, etc. Senate Bill 189 also indicated that a contract is considered to be awarded when it is entered into or executed, irrespective of whether the parties to the contract have exchanged money.

Ohio Rev. Code Section 9.24 (G)(1)(a) states that the only contracts subject to the provisions of the statute are those contracts in which the cost for the goods, services, or construction exceeds \$25,000. Division (G)(1)(b) provides an exception to this rule and applies the statute to a contract awarded to any person who, in the previous fiscal year, received contracts from the state agency or political subdivision, the aggregate of which exceeded \$50,000.

Per OAG 2004-014, the term “state funds” means moneys, other than federal funds, that are held in the state treasury and appropriated by the General Assembly in accordance with Ohio Constitution Article II, § 22 for expenditure by a state agency or political subdivision. If state funds are commingled with local funds, a contract paid with those funds would be presumed to include both state and local funds. In contrast, if a political subdivision segregates its funds and pays for a contract with only local funds, the contract would not be subject to Ohio Rev. Code 9.24.

¹⁰ The term “political subdivision” refers to any county, city, village, township, park district, or school district as defined in Ohio Rev. Code Section 9.82.

¹¹ It was unclear in the initial version of ORC 9.24 whether a finding for recovery issued against a corporation also applied to individuals within the corporation, and vice versa. ORC 9.24(H)(5) now clarifies that the term “person” applies only to the person actually named in the finding for recovery.

For the purposes of Ohio Rev. Code Section 9.24(B), a finding for recovery is unresolved unless one of the following criteria applies:

- (1) The money identified in the finding for recovery is paid in full to the state agency or political subdivision to whom the money was owed;
- (2) The debtor has entered into a repayment plan that is approved by the attorney general and the state agency or political subdivision to which the money identified in the finding for recovery is owed. A repayment plan may include a provision permitting a state agency or political subdivision to withhold payment to a debtor for goods, services, or construction provided to or for the state agency or political subdivision pursuant to a contract that is entered into with the debtor after the date the finding for recovery was issued.
- (3) The attorney general waives a repayment plan described in division 9.24(B)(2) of this section for good cause;
- (4) The debtor and state agency or political subdivision to whom the money identified in the finding for recovery is owed have agreed to a payment plan established through an enforceable settlement agreement.
- (5) The state agency or political subdivision desiring to enter into a contract with a debtor certifies, and the attorney general concurs, that all of the following are true:
 - (a) Essential services the state agency or political subdivision is seeking to obtain from the debtor cannot be provided by any other person besides the debtor;
 - (b) Awarding a contract to the debtor for the essential services described in division 9.24(B)(5)(a) is in the best interest of the state;
 - (c) Good faith efforts have been made to collect the money identified in the finding of recovery.
- (6) The debtor has commenced an action to contest the finding for recovery and a final determination on the action has not yet been reached.

The Auditor of State shall maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The Auditor of State currently has this database operational and the database will be updated periodically in accordance with Ohio Rev. Code Section 9.24(D). The database is available at the Auditor of State's website: www.auditor.state.oh.us

Before awarding a contract for goods, services, or construction, paid for in whole or in part with state funds, a state agency or political subdivision shall verify that the person to whom the state agency or political subdivision plans to award the contract does not appear in this Auditor of State database.

Under Senate Bill 189, bonding companies, insurance companies, self-insurance pools, joint self-insurance pools, risk management programs, or joint risk management programs are exempt from the provisions of this statute unless a court has entered a final judgment against the company and the judgment has not yet been satisfied. Medicaid provider agreements (see Ohio Rev. Code Chapter 5111) or payments or provider agreements under disability assistance medical assistance (Ohio Rev. Code Chapter 5115) are also exempted. Lastly, if federal law dictates that a specified entity provide

the goods, services, or construction for which a contract is being awarded, the entity is exempt, regardless of whether that entity has an unresolved finding for recovery.

Also, ORC 9.24 (G)(1)(a) states that the only contracts subject to the provisions of the statute are those contracts in which the cost for the goods, services, or construction exceeds \$25,000. Division (G)(1)(b) provides an exception to this rule and applies the statute to a contract awarded to any person who, in the previous fiscal year, received contracts from the state agency or political subdivision, the aggregate of which exceeded \$50,000. Consequently, state agencies and political subdivisions should immediately review their contracts awarded in the previous fiscal year in order to identify persons to whom this aggregating provision applies. In summary, ORC 9.24 applies only to contracts which are the subject of a competitive contracting process and which either exceed \$25,000 or meet the aggregating criteria described above.

Sample Questions and Procedures

You should test this in conjunction with tests of procurements subject to competitive bidding. See the related RC 9.24 step in OCS steps:

- 2-1 Municipalities
- 2-5 Counties
- 2-7 Townships
- 2-10 School districts
- 2-11 School districts

Note: R.C. 9.24 applies to community schools, state colleges and universities, and the two state medical colleges.

R.C. 9.24 does not apply to community colleges, libraries (except for the State Library of Ohio), or hospitals.

Chapter 3

DEBT

The power of a taxing authority to incur debt for public purposes is a power of local self-government provided by the Ohio Rev. Code through Chapter 133, the Uniform Public Securities Law. In addition, the taxing authority's charter, ordinances and resolutions may place further restrictions (or, in the case of a charter, fewer restrictions) on the taxing authority's power to incur debt.

In issuing debt, many governments will either engage bond counsel or will use a local financial institution to advise them regarding compliance with debt-related laws. Using legal counsel experienced with debt compliance can help a government meet Chapter 133 (and other requirements.) Auditors should consider this when determining the nature and extent of testing in this area.

Note: There are many Revised Code Sections authorizing governmental debt, in addition to Chapter 133. Many requirements from other chapters refer to, and require compliance with certain RC 133 sections. It is impractical to describe every Revised Code debt requirement in this chapter. This chapter focuses on some of the most common requirements applicable to local government securities. **However, auditors may need to refer to other RC sections, and amend the steps this Ohio Compliance Supplement Chapter lists for debt issued under other RC sections.**

Compliance Requirements

Chapter 3 - Debt

Section A: Entities Other Than Community Schools

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Section A: Entities Other Than Community Schools

3-1 Compliance Requirement: Ohio Const. Art. XII, Section 11; Ohio Const. Art. XVIII, Section 12 Ohio Rev. Code Sections 133.10, 133.22 133.24, 321.34, 5705.03, 5705.05, 5705.09 and 5705.10; 1981 Op. Atty Gen. No. 81-035 – **Issuing or Retiring Bonds and Notes.**

Summary of Requirements:

BACKGROUND INFORMATION: Per RC 133.01(Q), *general obligation* securities are those collateralized by a pledge of taxing authority, up to the subdivision's available tax limit (sometimes described as a taxing authority's "full faith, credit and taxing authority.")

The following are examples of securities that are *not* general obligations:

RC 133.01(LL) defines *self-supporting securities* as securities, or portions of securities where the fiscal officer estimates that *revenue* sources, excluding taxes, are sufficient to pay for operating costs plus debt service. These are securities collateralized by pledged revenue,¹ without a pledge of taxes. Enterprise utility operations often issue self-supporting securities. RC 133.01(MM) authorizes various subdivisions to issue self supporting securities; such as municipalities, townships, counties, school districts, and certain other districts. (See the statute for a complete list.) RC 133.01(MM) does not list community schools.

RC 133.08 defines *revenue* securities as those a county issues, collateralized only by pledged revenue and which are not secured by a county's full faith, credit and taxing authority.

Ohio Const. Art. XVIII, Section 12, authorizes a municipality to issue bonds collateralized by pledged revenues or mortgages to acquire, construct, or extend public utilities. These bonds do not impose any liability on the municipality, except the creditor's right to the pledged revenue and / or mortgage. That is, this debt is not a general obligation.

- Ohio Const. Art. XII, Section 11 states "No bonded indebtedness of the state, or any political subdivision thereof, shall be incurred or renewed unless, in the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually by taxation an amount sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity."
- Ohio Rev. Code Section 5705.03 provides that the taxing authority of each subdivision must levy sufficient taxes annually as are necessary to pay the interest and sinking fund on and retire at maturity the bonds, notes and certificates of indebtedness of such subdivision *subject to the limitations of applicable statutes.*
- RC 133.23 describes the legislation required to authorize new securities. Per RC 133.23(C), Legislation must identify the source(s) of repaying the bonds, which may be **any** moneys required by law to be used, or lawfully available, for the purpose. If the bonds are general obligations, or a property tax otherwise must be levied for the debt service, the legislation shall provide for levying a property tax

¹ *Pledged revenue* is revenue debt legislation or covenant provisions pledge as collateral to the debt owners.

sufficient to pay the bonds' debt charges; but the tax amount levied or collected in any year may be reduced by the amount to be available from special assessments,² revenues and surplus funds of public utilities, any surplus in the funds from which such bonds are to be retired, or other moneys specifically assigned by law or by legislation of the taxing authority for payment of such debt charges.

We interpret RC 133.23(C) as follows:

- Revenue (tax or otherwise) pledged to repay debt must be used for debt service unless the debt is repaid from other sources.
 - A government can use unrestricted money or money restricted to purposes consistent with paying a debt issue to pay debt service. For example, a government might use restricted grant revenue³ to pay revenue anticipation note debt service, if the debt proceeds were spent for allowable grant purposes, even if the debt legislation pledges taxes.
 - Therefore, if these bonds are a general obligation, a government must *authorize* a levy, but need not levy the tax if it can use other resources to pay the debt service.
- Section 5705.09(C) requires each subdivision to establish a bond retirement fund into which it must pay sufficient revenues to retire serial bonds, notes and certificates of indebtedness at maturity.
- Section 5705.10 provides that all revenue derived from levies for debt charges on bonds, notes, or certificates of indebtedness must be paid into a [debt service] fund for that purpose.
- Section 133.10(E) further provides that revenue anticipated (i.e. property taxes pledged to pay tax anticipation notes) may be appropriated for purposes other than paying debt charges only after deducting an amount sufficient to pay the debt. The amount (of anticipated revenues) to be applied to debt charges must be set aside in an account in the bond retirement fund. Requirements Ohio Rev. Code Section 133.10(E), apply to certain other types of securities, for example in Ohio Rev. Code sections:
- 133.13: Certain special assessments
 - 133.17: Securities anticipating special assessments
 - 133.32: All RC 133 securities
 - 6101.56 Conservancy district special assessments RAN
- Ohio Rev. Code Section 133.22 requires that when a subdivision issues notes, its financial officer must notify the county auditor that such notes have been sold. Per RC 321.34(B), when a county auditor *advances* tax revenue to a subdivision, the county auditor must allocate the advance between

² FYI: Special assessment anticipation notes issued per RC 133.17 are collateralized by a pledge of special assessments, *and* as general obligations. However, notes issued per RC 133.13, anticipating special assessments collected in one installment are collateralized only by the assessments and are *not* general obligations.

³ Unless the grant regulations prohibit debt payments. For example, Circular A-87 would generally permit using Federal grants to pay debt related to assets used in Federal programs, per Attachment B, item 23b.

⁴ ORC 133.01(E) defines *capitalized interest* as interest received with the proceeds of a security. For example, this would include interest payable accruing between the security's issuance date and the date the security was sold. Since the government must pay this interest to the security owners, the government generally must set aside this interest for the first debt service payment and should not use it for the purpose for which the principal was issued. [RC 133.16] Do not confuse this with *capitalized interest* discussed in FASB 34 & 62 or GASB 34, 37, etc.

the subdivision's general and debt service fund, to provide sufficient tax revenue to pay the subdivision's outstanding G.O. indebtedness.

- Per RC 133.23(D), if a government issues bonds or bond anticipation notes, the fiscal officer of the subdivision shall file a copy of the legislation with the county auditor of each county in which any part of the subdivision is located.
- FYI: RC 133 securities may include the following features:
 - Floating interest rates [133.26(A)]
 - Early redemption or call provisions [RC 133.26(B)]
- **Absent a specific requirement**, debt may be paid from any unrestricted monies held, segregated from restricted monies, in a fund which was established for a purpose not inconsistent with paying such debt. When evaluating compliance with the requirements in this section, place emphasis on the source of monies used to repay debt. When a subdivision pays debt from a fund other than a debt retirement fund, consider the following:
 - Ohio Rev. Code Section 5705.10 provides that money paid into a fund shall be used only for the purpose for which such fund was established. Therefore, money in a fund may be used to pay debt charges provided the payment of such debt charges is consistent with the purpose for which the fund was established;
 - With regard to tax anticipation notes, Ohio Rev. Code Section 133.24(D) provides that, except for **capitalized interest**,⁴ debt charges on tax anticipation notes are payable only from the revenue collected by the tax levy anticipated.
 - Ohio Rev. Code Section 5705.05 prohibits using taxes levied for current expenses to pay debt charges.
 - 1981 Op. Atty Gen. No. 81-035 states:

 Certain moneys paid into the general fund which are not derived from a general levy for current expenses are placed in the general fund precisely because their use is not restricted. (See Ohio Rev. Code Section 5705.10). Such monies may be used to pay debt charges provided that they have not been commingled with general fund monies which may not be used for debt payment. Where otherwise unrestricted monies have been paid into the general fund and have been commingled with restricted monies to the extent that the particular source from which the monies originated cannot be distinguished, such monies may be used to pay debt charges only after they have been transferred to an appropriate fund pursuant to Ohio Rev. Code Section 5705.14.
- Legislation authorizing a debt issuance may contain restrictions on the source of payment for debt charges.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists 		

<ul style="list-style-type: none"> • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures – Compliance (Substantive) Tests</p>		
<ul style="list-style-type: none"> • <u>For securities issued during the audit period, inspect the debt legislation and determine under which Revised Code statute the debt was issued. If that section is not listed in this Ohio Compliance Supplement Chapter, read the specific statute and amend the testing steps to include tests to determine:</u> <ul style="list-style-type: none"> ○ <u>The legality of the source of repayment and collateral. (We can normally rely on the work of bond counsel or the underwriter, if they were involved with a debt issue. We should inspect their conclusions for reasonableness and summarize in the permanent file.)</u> ○ <u>Whether the government properly segregated any revenue pledged for debt service or capitalized interest and used that revenue for debt service. This will often require establishing a debt service fund.</u> ○ <u>Whether the government used the proceeds for the purposes authorized.</u> ○ <u>If the debt is still outstanding at the end of the audit period, include copies or summaries of the information related to the three bullet points above in the permanent file.</u> ○ <u>If the debt includes features such as floating interest rates or early redemption or call provisions, determine if enabling legislation and the RC authorize those features. (For example, RC 133.22(D) describes features BAN can include.)</u> • If a deficit exists in a bond retirement fund, inquire with management about the reasons. Determine whether the government complied with the debt contracts regarding segregating resources into the bond retirement fund. • <u>If revenue-supported debt requires the government to set rates sufficient to cover debt service, inspect the government’s computations supporting the sufficiency of revenue. Scan the trial balance of the fund receiving the revenue subject to the rate covenant. Determine if the receipts are sufficient to cover the fund’s disbursements, including debt service.</u> • Inspect the county tax settlements and trace revenues to the funds indicated. If amounts from tax levies for bond retirement are being placed into funds other than bond retirement funds, inspect documentation that the government deducted an amount sufficient to pay the debt charges. • By reading the government’s financial statements or inspecting its ledgers, determine where debt is paid from. If other than bond retirement funds, determine that: <ul style="list-style-type: none"> ○ Debt paid from a restricted fund was paid from revenue which could be used for the same purpose for which the debt proceeds were spent; ○ restrictions, if any, in the debt-authorizing legislation were followed; ○ revenue derived from a general levy for current expenses is not used to pay debt charges; or 		

<ul style="list-style-type: none">○ monies used to pay debt from the general fund have not been commingled with general fund monies which may not be used for debt payment.• Determine if the fiscal officer filed a copy of the authorizing legislation with the county auditor.• Note: Where bond counsel was involved with debt issues we are testing, we can usually rely on <u>documents</u> they have prepared or opined on, as evidence that legislation authorizing the securities complies with statute. However, bond counsel would not “audit” the government’s <i>subsequent</i> compliance with requirements. For example, we would not expect bond counsel to determine how the government accounted for debt proceeds or whether the proceeds were spent for authorized purposes.	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

3-2 Compliance Requirement: Ohio Rev. Code Sections 133.10, 133.22 and 133.24– Bond, Tax and Revenue Anticipation Notes (BAN, TAN and RAN).

Summary of Requirements: Per the Appendix at the end of this chapter, several RC sections authorize TAN, RAN or BAN. Short-term TAN or RAN are *generally* subject to (1) below. Long-term TAN are *generally* subject to (2) below. Significant requirements related to BAN are described at the end of step 3-2.

- 1) **Short-term** notes anticipating *current* revenues, most often current tax levies: A government cannot issue these notes for more than a defined percentage of the current-year's estimated revenue (for example, ½ the current annual estimated revenue from utility charges or grants [RC 133.10(B)], or approximately ½ of the next tax settlement, [RC 133.10(A)]). These notes normally mature within six months, or the end of the fiscal year, whichever occurs first. Most RC sections authorizing these notes require them to comply with RC 133.10. The remainder of this step refers to these notes as *RC 133.10 short-term notes*.
- 2) **Long-term** notes anticipating *future tax* revenues, from voted tax levies, usually of a limited life: A government cannot issue these notes for more than the amount the levy will generate over its life, or a portion of its life. These notes mature over the life of the levy or a shorter period the Revised Code specifies, such as 5 or 10 years. Most RC sections authorizing these notes require them to comply with RC 133.24. The remainder of this step refers to these notes as *RC 133.24 long-term notes*.

RC 133.10 short-term TAN or RAN

TAN:

- TAN must mature no later than the last day of the sixth month after the issue date, and in no case may they mature after the end of the fiscal year. The aggregate amount outstanding cannot exceed ½ of the amount anticipated for the next six months (typically the next settlement minus advances). [RC 133.10(A)]
- RC 133.10(C) amends 133.10(A) above for counties, municipalities, townships and school districts. If one of these entities issues TANs under RC 133.10(C), these TANs need not mature until the end of the year. (That is, they are not restricted to a six-month maturity.)
- Notes a school district issues anticipating a delayed property tax settlement may be for up to 90% of the amount estimated to be received by that settlement (other than taxes to be received for paying debt charges) minus advances, and may mature as late as the August 31 after the June 30 fiscal year end. [RC 133.10(D)]

RAN:

- The notes issued cannot exceed ½ of the amount of the projected revenues remaining to be received during the fiscal year, minus advances and prior collections, as estimated by the fiscal officer. [RC 133.10(B)]
- Notes issued anticipating current revenues in and for any fiscal year from any source or combination of sources, including distributions of any federal or state moneys, other than the proceeds of property taxes shall mature not later than the last day of the fiscal year for which the revenues are anticipated. [Section 133.10(E)(2)]

All RC 133.10 short-term TAN or RAN

- Pledged revenue (tax or otherwise) collected to retire these notes is considered appropriated for debt charges and financing costs. The government can appropriate this revenue for other purposes only after deducting sufficient amounts to pay debt service. The government must deposit pledged revenue sufficient to pay the debt in an account in a debt service fund. [RC 133.10(E)(1)]
- These notes cannot be issued prior to the first day of the fiscal year. [RC 133.10(E)(2)] (The only exception is that a board of education of a school district may issue notes as early as 10 days before the first day of the fiscal year (i.e., by June 21), provided that the proceeds of the notes can neither be spent nor considered available for appropriation prior to the first day of the fiscal year [i.e., July 1]). [RC 133.10(H)]
- The government can spend note proceeds only for the purposes for which the related revenue can be spent. [RC 133.10(E)(3)] For example, if a government issues RAN, anticipating Federal grant proceeds, the government can spend the note proceeds only for purposes the Federal grant permits.

RC 133.24 long- term TAN

- The aggregate amount of principal outstanding may not exceed the anticipated levy proceeds provided in the applicable law by a statement of percentage or by a limitation on the amount of annual maturities. These TAN must mature by December 31 of the year authorized by statute, or by December 31 of the last year of the levy, whichever is earlier. [RC 133.24(B)] Therefore, the duration of these notes should match the levy's life. (Unless another RC section specifies a shorter period. See the appendix at the end of this chapter for examples.) The estimated annual debt service should approximate the annual levy proceeds.
- Debt service is payable only from the levy proceeds. (Except the government should use capitalized interest collected with the debt proceeds to pay capitalized interest due with the first debt service payment.) The levy proceeds are deemed appropriated for debt service, and must be deposited into an account in the debt service fund. (The interest payable from capitalized interest should be paid with capitalized interest.) [RC 133.24(D)]
 - Any amount so deposited and not needed for the purpose in the particular fiscal year may, without compliance with any other law or approval by any other agency, be transferred to the special fund established for the proceeds of the tax levy [RC 133.24(D)] (such as a capital projects fund, if the tax was levied for both debt service and for a specific capital project.)

Requirements applicable to BAN

- Per RC 133.22, the legislative body must pass legislation authorizing:
 - The purpose for (eventually) issuing the bonds (which is limited to one purpose) [(A)(1)(a)]
 - The maximum amount of BAN, which cannot exceed the bond amount [(A)(2)(a)]
 - The maximum maturity, which cannot exceed (C). (See (C) below).
 - If the bonds are eventually payable from a property tax, provides for the levy of property taxes while the BAN are outstanding;
- (Note: We can normally rely on bond counsel for assuring compliance with the following provisions. This requirement is listed as background information for you.) Per 133.22(C), BAN issued with a latest maturity of less than two hundred forty months may be renewed for up to two-hundred-forty months.
 - Per (C)(2), five years after issuing the original BAN, a portion of the principal shall be paid annually, in amounts at least equal to, and payable not later than the payment dates of, the principal that would have been paid if the government issued bonds at the

<p>expiration of the initial five-year period.</p> <ul style="list-style-type: none"> ○ Per (C)(3), the latest maturity of BAN may not exceed the maximum maturity of the bonds anticipated plus five years. (Bond maturities can range from 5 to 50 years, per RC 133.20.) ○ Note: There are exceptions to these general rules, but they are too hideously complex to summarize here. Refer to RC 117.22(C) for exceptions.) <ul style="list-style-type: none"> ● (These features are listed for your information.) Per 133.22(D), BAN may include the following features: <ul style="list-style-type: none"> ○ Put options (D)(6) ○ Issue commercial paper in lieu of BAN (D)(7) ○ Floating interest rates (D)(8) ○ Interest rate swaps (D)(9)(b) ● The subdivision’s financial officer must notify the county auditor that BAN have been sold. [RC 133.22(B)] 		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> ● Policies and Procedures Manuals ● Knowledge and Training of personnel ● Tickler Files/Checklists ● Bond Counsel/Lender Involvement ● Legislative and Management Monitoring ● Management’s identification of changes in laws and regulations ● Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ul style="list-style-type: none"> ● For notes issued during the audit period, inspect the debt legislation and determine under which Revised Code statute the debt was issued. If that section is not listed in this Ohio Compliance Supplement Chapter (including the appendix), read the specific statute and amend the testing steps to include tests for the 5 debt requirements below. If a note is outstanding at the end of the audit period, include copies or a summary of documentation addressing the 5 compliance tests below in the permanent file. ● Determine whether: <ol style="list-style-type: none"> 1. Note proceeds did not exceed RC limits, typically limited by the related revenue estimate (RAN or TAN) or bond proceed (BAN) estimates. (We can normally rely on the work of bond counsel or the underwriter, if they were involved with a debt issue. We should inspect their conclusions for reasonableness and summarize for the permanent file.) 2. Notes did not exceed limitations on the <u>time to maturity</u>. (<i>Usually</i>, notes issued for operating expenses must mature in one year. Notes used for capital improvements have longer maturities. BAN can mature up to the life of the eventual bonds.) (We can normally rely on the work of bond counsel or the 		

<p>underwriter, if they were involved with a debt issue. We should inspect their conclusions for reasonableness and summarize for the permanent file.)</p> <ol style="list-style-type: none"> 3. The government repaid the debt with the pledged or other legal revenue (RAN and TAN), or refinanced BAN according to the BAN legislation. 4. The government properly segregated any revenue pledged for debt service and used that revenue for debt service. 5. The government used the note proceeds for the purposes authorized. <ul style="list-style-type: none"> • For BAN issued during the audit period, determine if the fiscal officer filed a copy of the legislation with the county auditor(s) per RC 133.22(A) & (B). The legislation should specify: <ul style="list-style-type: none"> ○ The purpose for which bonds will be used; ○ The election results, if from a voted levy; ○ The sources of repayment; ○ For anticipatory securities: <ul style="list-style-type: none"> ○ The maximum amount to be outstanding; ○ The method of determining interest due; ○ The dates debt service is due; ○ The debt service due each payment date; ○ Provisions for early redemption or prepayment; ○ The provision of any levy needed to redeem the securities. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

3-3 Compliance Requirement: Ohio Rev. Code § 3375.404 - Additional borrowing authority for boards of library trustees.

Summary of Requirements: Ohio Rev. Code § 3375.404 allows a board of library trustees of a public library that receives an allocation of the library fund to anticipate its portion of the proceeds of the library fund distribution and issue library fund facilities notes to pay the costs of financing the facilities (or certain other property), or to refund any refunding obligations.

A library board may issue such notes only if it projects that the annual note service charges (including interest, repayment of principal, and redemption premiums) are capable of being paid from the library’s annual Library and Local Government Support Fund (LLGSF) receipts.

The maximum annual debt service for these notes cannot exceed 30% of the average LLGSF funding the library received for the two years preceding the year the notes were issued.

The notes are payable from the LLGSF monies received by the library board issuing the notes, or from the proceeds of notes, refunding notes, or renewal anticipation notes which may be pledged for such payment in the authorizing resolution. The notes are payable solely from the funds pledged for their payment as authorized by Ohio Rev. Code § 3375.404 and all notes must contain on their face a statement to that effect.

The maximum maturity, in the case of any anticipation notes, cannot exceed 10 years from the date of issue of the *original* anticipation notes.

For *refunding* notes or any notes that are *not* anticipation notes, the maximum maturity cannot exceed 25 years from the date of the original issue of notes.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>By reading the minutes, inspecting bond ledgers or other documents, or by inquiry, determine if the library used this type of borrowing.</p> <p>Calculate, or inspect the library's calculations, that the maximum annual note debt service charges does not exceed 30% of the average LLGSF funding for the two years preceding the year in which the notes are issued. (This step should only apply in the year notes were issued.)</p> <p>Inspect the notes for the statement that the notes are payable solely from the funds pledged for their payment as authorized by Ohio Rev. Code Section 3375.404.</p> <p>Inspect the notes for the maximum maturities of 10/25 years.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Revised: While the regulation did not change, see updated filing options in the NRMSIR Appendix following this step.

3-4 Compliance Requirement: 17 C.F.R. 240.15c2-12

Summary of Requirement: Underwriters contracting subsequent to July 3, 1995 to issue municipal securities (bonds, notes, or other secured debt instruments issued by any state or local government regardless of whether the government is a municipality) will be subject to the amended disclosure requirements of the Rule. The SEC has imposed certain requirements on underwriters (such as brokers and dealers) selling securities. The Rule prohibits underwriters from selling municipal securities unless they have performed due diligence procedures. Other requirements:

1. The underwriter must review and agree to provide a copy of the official statement to any requesting party *when issuing / marketing securities*. (That is, this step only applies when securities are issued.) The official statement must include:
 - The terms of the proposed issue.
 - Financial and/or operating data from each person material to potential investors, including information from all obligated persons.
 - A description of the secondary market disclosure undertaking.
 - Disclosure of any past failures to make required disclosures within the past five years.

2. The issuer and/or obligated persons (i.e., entities directly or contingently responsible for repaying the securities) must agree in writing, to provide to all approved Nationally Recognized Municipal Security Information Repositories (NRMSIRs) and to the State Information Depository (SID): See the appendix immediately following this section for the name and addresses of the Repositories.
 - **Annual** financial information and operating data.
 - Timely material event notices.* Underwriters must also establish procedures to assure they receive these notices.
 - Audited financial statements, when and if available.
 - Timely notice of failure to provide required financial information.

* Material Events defined:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions or events affecting the tax-exempt status of the security;
7. Modifications to rights of security holders;
8. Bond calls;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the securities;
11. Debt ratings changes; and
12. Failure to provide required annual financial information on or before the date specified.

Summary of Requirement (continued):

Exemptions: Certain municipal security issues are exempted from the Rule such as:

- Security issues of less than \$1 million.
- Securities with maturities of 18 months or less.
- Securities sold in denominations of at least \$100,000, with maturities of no more than nine months.
- Securities sold to no more than 35 “sophisticated investors” with maturities of no more than nine months.
- Securities for which no obligated person is obligated for more than \$10 million in aggregate Municipal securities.

Note: See AOS Bulletin 95-018 for additional information regarding this requirement.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Scan copies of annual information submitted to the NRMSIRs and the State Information Depository (SID). Document that such information was:</p> <p>(1) filed with the NRMSIR's/SID and</p> <p>(2) whether the auditor noted any material errors or omissions to the information. <i>(We do not expect auditors to make time-consuming examinations of data. Instead, scan for obvious errors, such as omission of financial statements or footnotes, whether the contractually-agreed basis of accounting was followed, whether information requiring audit includes an opinion, etc.)</i></p> <p>In conjunction with other procedures related to debt issued subsequent to July 3, 1995, document whether any material events (as defined in amended SEC Rule 15c2-12) came to the auditor’s attention. Document whether such material events were promptly disclosed to NRMSIRs/SID.</p> <p>Auditors should obtain written representations that management has transmitted all required information to NRMSIR's/SID and underwriters required by SEC Rule 15c2-12.</p>		

Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

NRMSIRs

Note: DisclosureUSA.org now provides a single, no -cost filing location, in lieu of filing with all the NRMSIRs and the State Information Depository. That website includes a link to a letter from the SEC authorizing this website to receive 15c2-12 filing information. Issuers should discuss this with their bond counsel.⁵

1. **Bloomberg Municipal Repository**
100 Business Park Drive
Skillman, NJ 08558
Ph. (609) 279-3225
Fax (609) 279-5962
Website: <http://www.bloomberg.com/markets/rates/municontacts.html>
E-mail: Munis@bloomberg.com
2. **Standard & Poor's Securities Evaluations, Inc.**
55 Water Street - 45th Floor
New York, NY 10041
Ph. (212) 438-4595
Fax (212) 438-3975
Website: <http://www.disclosuredirectory.standardandpoors.com/>
Email: nrmsir_repository@sandp.com
3. **FT Interactive Data**
Attn: NRMSIR
100 William Street, 15th Floor
New York, NY 10038
Ph. (212) 771-6999 or 800-689-8466
Fax (212) 771-7390
Website: <http://www.ftid.com>
E-mail: NRMSIR@interactivedata.com
4. **DPC Data, Inc.**
One Executive Drive
Fort Lee, NJ 07024
Ph. (201) 346-0701
Fax (201) 947-0107
Website: <http://www.dpcdata.com>
E-mail: nrmsir@dpcdata.com

State Information Depository

1. **Ohio Municipal Advisory Council**
9321 Ravenna Road, Unit K
Twinsburg, Ohio 44087-2445
Ph. (800) 969-6622 or (330) 963-7444
Fax (330) 963-7553
Website: <http://www.ohiomac.com> or <http://www.ohiosid.com>
E-mail: sid_filings@ohiomac.com

⁵ Although NRMSIRs and SIDS convert files to an Adobe® Acrobat® Portable Document Format (PDF) before releasing them to requesting parties, governments should *submit* their filings to DisclosureUSA in PDF to reduce the possibility of subsequent data corruption.

<p>3-5 Compliance Requirement: Ohio Rev. Code Section 505.401 – Bonds Fire District Trustees authorize.</p> <p>Summary of Requirements: Pursuant to ORC Chapter 133, Ohio Rev. Code Section 505.401 provides additional borrowing authority for the board of trustees for fire districts organized under ORC Section 505.37(C). This section allows the fire district’s board of trustees to issue bonds to acquire fire-fighting equipment, buildings and sites for the district or to construct or improve a building to house fire equipment.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests	
<p>By reading the minutes, inspecting bond ledgers or other documents, or by inquiry, determine if the fire district used this type of borrowing.</p>	
<p>If so,</p> <ul style="list-style-type: none"> • trace the bond issuance to the budget; • inspect the resolution authorizing the bond issuance; • determine whether the issuance is in accordance with ORC Chapter 133 requirements; and • determine whether the proceeds were used to acquire fire-fighting equipment, buildings or sites for the district or for the purpose of constructing or improving a building to house fire equipment. 	<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>

Section B: Community Schools

<p>3-6 Compliance Requirement: Ohio Rev. Code §3314.08(J) Foundation anticipation notes.</p> <p>Summary of Requirement: A community school may borrow money to pay any necessary and actual expenses in anticipation of State Foundation receipts. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the school may lawfully expend the anticipated foundation receipts. [Section 3314.08(J)(1)(a)]</p> <p>A community school cannot issue debt secured by taxes. [3314.08(H)]</p> <p>A school may also borrow money for a term not to exceed fifteen years to acquire facilities. [Section 3314.08(J)(1)(b)]</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>By reading the minutes, inspecting revenue ledgers, or by inquiry determine whether or not the School issued any type of debt.</p> <p>Examine disbursements made of the proceeds to determine that they were used only for the purposes described in the debt agreement.</p> <p>Determine that moneys borrowed to acquire facilities are for a term of fifteen years or less, and were not collateralized by taxes.</p>		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

<p>3-7 Compliance Requirement: Ohio Rev. Code §3318.50(B) School classroom facilities loan guarantee program; Ohio Rev. Code §3318.52 Establishment of community school loan guarantee fund.</p> <p>Summary of Requirement: All community schools may participate in the community school classroom facilities loan guarantee program. The Ohio school facilities commission may <u>guarantee</u> for up to fifteen years, up to eighty-five percent of the sum of the principal and interest on a loan made to the governing authority of a community school established under Ohio Rev. Code Chapter 3314 for the sole purpose of assisting the governing authority in acquiring, improving or replacing classroom facilities⁶ for the community school by lease, purchase, remodeling of existing facilities, or by any other means including new construction.</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>By reading the minutes, inspecting records, or by inquiry determine whether or not the school participates in the community school classroom facilities loan guarantee program.</p> <p>Determine that loan proceeds were used only to acquire, improve or replacing classroom facilities for the community school by lease, purchase, remodeling of existing facilities, or by any other means including new construction.</p> <p>Note: While not a compliance test, assure the debt footnotes describe the guarantee properly.</p>		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

⁶ Per 3314.50(A)(2), classroom facilities means buildings, land, grounds, equipment, and furnishings a community school uses to fulfill its mission.

**New section per HB 364,
Effective 4/8/03**

3-8 Compliance Requirement: Ohio Rev. Code §3314.30 ODE loans to community schools.

Summary of Requirements:

1. ODE must use Federal money to fund these loans [3314.30(B)].
2. The school must use the proceeds for any purpose described in the school’s contract⁷ with its sponsor (i.e., for any purpose consistent with the school’s mission) [3314.30(C)].
3. A school can obtain more than one loan, but cannot have more than \$250,000 of loans from ODE outstanding at any time [3314.30(C)].
4. The loans bear interest at the rate STAR Ohio is paying [3314.30(F)].
5. Each loan cannot be outstanding longer than 5 years [3314.30(G)].
6. ODE deducts debt service principal and interest from subsequent foundation payments[3314.30(G)].

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • ODE Involvement • Sponsor, Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ol style="list-style-type: none"> 1. By reading the minutes, inspecting records, inquiry, and by scanning the accounting records, determine whether the school received this loan(s) from ODE. 2. Since ODE lends Federal money, assure the School includes this loan in its Federal Awards Schedule or in notes to the schedule. See the AICPA’s Audit Guide, <i>Government Auditing Standards and Circular A-133 Audits</i>. 7.13 --- 7.15. 3. The school can use the proceeds for any purpose related to its mission. Therefore, any expenditure for a “proper public purpose” should be allowable. <p>Note: While not a compliance requirement, if material, assure the financial statements include the proceeds and repayment of the debt, and discloses the debt amortization, etc., and that the school will repay ODE via direct deductions from foundation receipts.</p>		

⁷ ORC 3413.03 lists lengthy requirements the contract must address. Auditors can presume ODE reviewed the contract for compliance with 3413.03 requirements as part of their loan approval process.

Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Step 3-2 Appendix Tax and Revenue Anticipation Notes

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§118.17. Issuance of local government fund notes</p> <p>Municipal corporation, county, or township</p>	<p>Current operating expenses the commission approves</p>	<p>§118.17(C)(3) states in part “Current revenue notes” means debt obligations described in section 133.10 or Chapter 5705. of the Revised Code or any other debt obligations issued to obtain funds for current operating expenses.”</p>	<p>No</p>
<p>§118.23. Current revenue notes issued during fiscal emergency</p> <p>Municipal corporation, county, or township</p>	<p>Current operating expenses the commission approves</p>	<p>§118.23(A) states “This section shall be applicable to current revenue notes approved by the financial planning and supervision commission or, when authorized by the commission, the financial supervisor pursuant to section 118.15 of the Revised Code and issued by a municipal corporation, county, or township pursuant to section 133.10 of the Revised Code and this section during a fiscal emergency period.”</p> <p>§118.23(G) states “ Current revenue notes of a municipal corporation, county, or township issued during a fiscal emergency period may mature on or before the thirty-first day of December of the calendar year in which issued, may, when issued in anticipation of the collection of current tax revenues, anticipate one-half of the amount that the budget commission estimates the subdivision will receive from all property taxes that are to be distributed to the subdivision from all settlements of taxes that are to be made in the remainder of that year, other than taxes to be received for the payment of debt charges, and less all advances, and may, if issued during the last two months of the calendar year in which the fiscal emergency period commenced, anticipate one-half the estimated amount of ad valorem property taxes levied in that year for the tax budget of the following year which were authorized to be levied by the municipal charter or otherwise authorized by vote of the electorate of the municipal corporation, county, or township and may mature not later than the thirty-first day of December of the year following the year in which such notes are issued, notwithstanding (i.e. in spite of) section 133.10 of the Revised Code.”</p>	<p>No</p>
<p>§118.24. Advance tax payment notes</p>	<p>For purposes the commission approves per</p>	<p>§118.24(H) states, “As used in this section <i>interest factor</i> means the amount calculated based on an interest rate, as</p>	<p>No</p>

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>Municipal corporation, county, or township</p> <p>Note: <i>Advance tax payment notes</i> are not common, but involve a taxpayer prepaying taxes. In return, the government issues a note to the taxpayer. The face amount of the note = the tax prepayment + interest the government credits to the taxpayer over the life of the note. Therefore, these are discount notes. The taxpayer receives credit for the prepayment + accrued interest upon redemption.</p>	<p>118.15</p>	<p>determined by the fiscal officer as of the date of such note, that would have been paid by the municipal corporation, county, or township on current tax revenue notes, maturing in six months, issued on that date pursuant to section 133.10 of the Revised Code. The face amount of the note less the amount of the advance tax payment made in the purchase of such note, shall be and shall be deemed to be interest paid and received on such note.”</p> <p>§118.24(I) states “The aggregate principal amount of advance tax payment notes, together with the aggregate principal amount of any current revenue notes issued under section 133.10 of the Revised Code in anticipation of ad valorem property taxes for the same year that are outstanding at the time of issuance, shall not exceed one-half of the amount that the budget commission estimates the municipal corporation, county, or township will receive from all property taxes that are to be distributed to the municipality from all settlements of taxes that are to be made in the remainder of that year, after subtracting from such amount advances thereon and property taxes to be received for the payment of debt service on debt obligations or to be deposited with a fiscal agent as provided in section 118.20 of the Revised Code.”</p>	
<p>§306.49. Annual tax levy; purpose</p> <p>County Transit Authority</p>	<p>Current expenses (133.10) or Permanent improvements (133.24)</p>	<p>306.49(A) States in part: The regional transit authority may borrow money in anticipation of the collection of current revenues as provided in section 133.10 of the Revised Code.”</p>	<p>306.49(A) <i>also</i> states in part “. . . the regional transit authority may levy upon the property within its territorial boundaries a tax, for all purposes other than bond debt charges, not in excess of five mills annually on the total value of all property as listed and assessed for taxation for any period <u>not exceeding ten years</u>. Such election shall be called, held, canvassed, and certified in the same manner as is provided for elections held pursuant to section 5705.191 (refers to RC 133.24. See separate description for 5705.191 below.) of the Revised Code. On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, in the amount and manner and at the times as are provided in section 5705.193 (this section refers to 133.24 and is for permanent improvements) of the Revised Code.</p>

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§1545.21. Election of tax levy for use of district; anticipation bonds</p> <p>Park District</p>	<p>Acquiring and improving land</p>	<p>No</p>	<p>§1545.21(B) states in part “When a tax levy has been authorized as provided in this section or in section 1545.041 of the Revised Code, the board of park commissioners may issue bonds⁸ pursuant to section 133.24 of the Revised Code in anticipation of the collection of such levy, provided that such bonds shall be issued only for the purpose of acquiring and improving lands.”</p>
<p>§3313.483. Closing or delaying opening for financial reasons prohibited; plan for implementing reductions; loans agreement</p> <p>School District</p>	<p>Permits obtaining various types of debt, <u>including</u> “133.10 notes,” up to the amount of the deficit the AOS certifies.</p>	<p>§3313.483(E)(4) states “Pursuant to the terms of such a loan, a board of education may issue its notes in anticipation of the collection of its voted levies for current expenses or its receipt of such state funds or both. Such notes shall be issued in accordance with division (E) of section 133.10 of the Revised Code and constitute Chapter 133 securities to the extent such division and the otherwise applicable provisions of Chapter 133. of the Revised Code are not inconsistent with this section, provided that in any event sections 133.24 and 5705.21 and divisions (A), (B), (C), and (E)(2) of section 133.10 of the Revised Code do not apply to these notes.”</p>	<p>No</p>
<p>§3318.052. Payment of district’s portion of basic project cost from available tax proceeds; credits; issuance of securities</p> <p>School District</p>	<p>Permanent improvement levy for a stated number of years, per 5705.281</p>	<p>No</p>	<p>§3318.052 (E) states in part “Issue securities to provide moneys to pay all or part of the district’s portion of the basic project cost of its classroom facilities project in accordance with an agreement entered into under division (A) of this section. Securities issued under this section shall be Chapter 133. securities and may be issued as general obligation securities or issued in anticipation of a school district income tax or as property tax anticipation notes under section 133.24 of the Revised Code.”</p>

⁸ RC 1545.21(B) mentions a bond issuance per RC 133.24. However, 133.24 only refers to notes. We will not object to the legal form of the debt if the government follows the advice of their legal or bond counsel.

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§3381.16. Tax levy upon affirmative vote; authorized uses of funds; anticipation notes and borrowing; resubmission of levy</p> <p>Regional Arts and Cultural District</p>	<p>To grant money to other arts and cultural organizations, or for the District’s operating or capital asset costs.</p>	<p>-§3381.16(A) states in part: The district may borrow money in anticipation of current revenues as provided in section 133.10 of the Revised Code.”</p>	<p>§3381.16(A) <i>also</i> states in part “On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, in the amount and manner and at the times as are provided in section 5705.193 (this section refers to 133.24 and is for permanent improvements) of the Revised Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy.</p>
<p>§4582.14. Tax levy; anticipatory notes</p> <p>Port Authority</p>	<p>Any allowable port authority expense including debt charges.</p>	<p>§4582.14 states in part, “The port authority may borrow money anticipating current revenues as provided in section 133.10 of the Revised Code.”</p>	<p>§4582.14 <i>also</i> states in part “. . . the port authority may levy upon the property within its jurisdiction a tax, for all purposes including bond debt charges, not in excess of one mill annually on the total value of all property as listed and assessed for taxation for any period <u>not exceeding five years, except that when the tax is for the payment of bond debt charges, such tax shall be for the life of the bond indebtedness.</u> On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in section 5705.193 of the Revised Code (this section refers to 133.24 and is for permanent improvements), for the issuance of notes by a county in anticipation of the proceeds of a tax levy.</p>
<p>§4582.40. Tax levy to provide necessary funds</p> <p>Newly created port authorities</p>	<p>Any allowable port authority expense including debt charges.</p>	<p>§4582.40 states in part “. . . The port authority may borrow money in anticipation of the collection of current revenues as provided in section 133.10 of the Revised Code.”</p>	<p>§4582.40 <i>also</i> states in part “. . . the port authority may levy upon the property within its jurisdiction a tax, for all purposes including bond debt charges, not in excess of one mill annually on the total value of all property as listed and assessed for taxation for any period <u>not exceeding five years, except that when the tax is to pay bond debt charges, the tax shall be for the life of the bond indebtedness.</u> On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds of the tax levy, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in section 5705.193] (this section refers to 133.24 and is for permanent improvements) of the Revised Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy.</p>
<p>§5705.191. Approval</p>	<p>If it is necessary to</p>	<p>No</p>	<p>§5705.191 states in part: “The notes</p>

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>of excess levy; issuing notes Any subdivision, other than the board of education of a school district or the taxing authority of a county school financing district</p>	<p>levy a tax in excess of the 10 mill limit for any of the purposes in RC 5705.19, or to supplement the general fund for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified.</p>		<p>shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance <u>over a period not exceeding the life of the levy anticipated</u>, and may have a principal payment in the year of their issuance.”</p> <p>An entity can also levy for operating expenses. The levy amount cannot exceed 50% of the proceeds of the levy. Notes issued for operations can mature over the life of a fixed-term levy. For an unlimited life levy, these notes must mature within 10 years.</p>
<p>§5705.193. County</p>	<p>Permanent improvement</p>	<p>No</p>	<p>§5705.193 states in part “Such notes shall be issued as provided in section 133.24 of the Revised Code, shall have <u>principal payments during each remaining year of the life of the levy</u> after the year of their issuance, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.194 School District</p>	<p>Emergency levy</p>	<p>No</p>	<p>§5705.194 states in part “After the approval of the levy and prior to the time when the first tax collection from the levy can be made, the board of education may <u>anticipate a fraction of the proceeds</u> of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.</p> <p>The notes shall be issued as provided in section 133.24 of the Revised Code, <u>shall have principal payments during each year after the year of their issuance over a period not to exceed five years</u>, and may have principal payment in the year of their issuance.”</p>
<p>§5705.198. Levy by joint recreation district</p>	<p>Perks and recreational purposes per 5705.19(H)</p>	<p>No</p>	<p>§5705.198 (limited to a fraction of the proceeds of that levy) “such notes shall be issued as provided in section 133.24 of the Revised Code.” These notes must mature by December 31 of the 5th year after the levy’s passage.</p>

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§5705.21. Special election on additional school levy</p> <p>School District</p>	<p>Permanent improvements</p>	<p>No</p>	<p>§5705.21(C)(2) states” After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in <u>each year over a period of five years after the issuance of the notes.</u></p> <p>The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period <u>not to exceed five years</u>, and may have a principal payment in the year of their issuance.”</p> <p>§5705.21(C)(3) states “After approval of a levy for general permanent improvements for a continuing period of time [i.e. an unlimited life levy], the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of <u>years, not exceeding ten</u>, after the issuance of the notes.</p> <p>The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over <u>a period not to exceed ten years</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.217. Special elections on additional tax for school district purposes; anticipation notes</p> <p>School District</p>	<p>Current operating expenses and permanent improvements</p>	<p>No</p>	<p>§5705.217(B)(2) states “After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each <u>year over a specified period of years, not exceeding ten</u>, after the issuance of the notes.</p> <p>The notes shall be issued as provided in section 133.24 of the Revised Code, shall have <u>principal payments during each year after the year of their issuance</u></p>

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§5705.218. Special elections on school district bond issues and tax levies; anticipation notes</p> <p>School Districts</p>	<p>Bonds or BAN for permanent improvements and current operating expenses</p>	<p>No</p>	<p>over a period not to exceed ten years, and may have a principal payment in the year of their issuance.”</p> <p>Yes - §5705.218(F)(3) states “After the approval of a tax for general, on-going permanent improvements under this section, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected in <u>each year over a specified period of years, not exceeding ten</u>, after issuance of the notes.</p> <p>Anticipation notes under this section shall be issued as provided in section 133.24 of the Revised Code. Notes issued under division (F)(1) (for current operating expenses) mature within the next fiscal year). BAN issued under (F)(2) (specific permanent improvements) shall have principal payments during each year after the year of their issuance <u>over a period not to exceed five years</u>, and may have a principal payment in the year of their issuance. Notes issued under division (F)(3) (ongoing permanent improvements) shall have <u>principal payments during each year after the year of their issuance over a period not to exceed ten years</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.23. Resolution for special levy for public library; submission to electors</p> <p>Public Library</p>	<p>Current expenses or for constructing specific permanent improvements</p>	<p>No</p>	<p>Yes - §5705.23 states in part “After the approval of a levy on the current tax list and duplicate to provide an increase in <u>current expenses</u>, and prior to the time when the first tax collection from such levy can be made, the taxing authority at the request of the board of library trustees may anticipate a fraction of the proceeds of such levy and issue anticipation notes in an amount not exceeding fifty per cent of the <u>total estimated proceeds of the levy to be collected during the first year of the levy</u>.</p> <p>After the approval of a levy to provide revenues for <u>the construction or acquisition of any specific permanent improvement or class of improvements</u>, the taxing authority at the request of the board of library trustees may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the</p>

Ohio Revised Code Section and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			<p>total estimated proceeds of the levy to be collected in each year over a <u>period of ten years</u> after the issuance of such notes.</p> <p>The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a <u>period not to exceed ten years</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.24. County tax levy for children services</p> <p>County</p>	<p>Operating or capital improvement expenditure necessary for the support of children services and the care and placement of children</p>	<p>No</p>	<p>§5705.24 states in part “After the approval of such levy and prior to the time when the first tax collection from such levy can be made, the board of county commissioners may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not to exceed fifty per cent of the total estimated proceeds of the levy throughout its life.</p> <p>Such notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a <u>period not exceeding the life of the levy</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5748.05. Income tax anticipation notes</p> <p>School District</p>	<p>Current operating expenses or permanent improvements</p>	<p>No</p>	<p>§5748.05 states in part “a board of education may anticipate a fraction of the proceeds of the tax and issue anticipation notes in an amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected for its first year of collection as estimated by the tax commissioner. The anticipation notes are Chapter 133. securities and shall be issued as provided in section 133.24 of the Revised Code as if property tax anticipation notes.”</p>
<p>§5748.08. Election on income tax and bond issue as one ballot question</p> <p>School District</p>	<p>Permanent improvement bonds or BAN</p>	<p>No</p>	<p>§5748.08(G) states “After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.”</p>

Chapter 4

ACCOUNTING AND REPORTING

The Auditor of State prescribes and requires by rules, that certain public offices prepare and file annual financial reports in accordance with generally accepted accounting principles. Certain public offices may also be required by statute, rule, or agreement to prepare and file performance or other special purpose reports.¹

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* **IMPORTANT!** ORC 117.11(A) **mandates** the AOS to inquire regarding these security controls. We interpret this requirement to also apply to IPAs contracting to audit counties.

¹ The Auditor of State also requires by rules, that certain public offices follow a prescribed uniform chart of accounts and/or establish a fund accounting system to demonstrate legal compliance, financial accountability and to provide management with information for decision making. These rules are in Chapter 117 of the Ohio Administrative Code. As a matter of accountability and internal control, each public office should account for financial activities using an accounting system which demonstrates legal compliance and follows a documented chart of accounts appropriate for its particular activities; and is supported by appropriate subsidiary ledgers/journals. When a public office fails to maintain such an accounting system, auditors should consider whether the failure constitutes a reportable internal control condition or reportable noncompliance. Also see Step 4-5.

While the law did not change, AOS Bulletin 2005-02 amended auditors' opinions due to an interpretation the AICPA issued.

4-1 Compliance Requirements: Ohio Admin. Code Section 117-2-03 (B) GAAP financial reporting.

Summary of Requirement: All counties, cities, school districts, educational service centers, and community schools must report (but not necessarily account) on a GAAP basis.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Inquire if the government files its financial reports with the Auditor of State on a GAAP basis. Inspect a copy of the filed report.</p> <p><u>If a GAAP-mandated government does not follow GAAP, issue an adverse opinion on the financial statements, as well as a noncompliance finding. See Bulletin 2005-002.</u></p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

4-2 Compliance Requirements: GAAP and annual financial reporting for community improvement corporations (CICs)² and development corporations (DCs).³

Summary of Requirements: Annual Reporting (Ohio Rev. Code §1724.05– CICs and §1726.11– DCs)

- Corporations must submit (unaudited) annual GAAP financial reports to the Auditor of State. The corporation must file the annual report within 120 days of fiscal year end. The Ohio Rev. Code does not prescribe a fiscal year end for these corporations.

Failure to Report/Present Auditable Records (Ohio Rev. Code §1724.06- CICs and §1726.12- DCs)

- Additionally, the Auditor of State must certify corporations to the Secretary of State in the following two circumstances:
 - If a Corporation files its annual report more than 90 days delinquent (i.e., does not file its annual GAAP financial statement report within 210 days of its fiscal year end).
 - If a Corporation does not present auditable records within 90 days of a determination by the Auditor of State that a corporation is unauditabile.
- Upon certification, the Secretary of State is to cancel the Corporation’s articles of incorporation until the deficiency is remedied.

► For more information, see AOS Bulletin 2001-003.

NOTE: Revisions to audit requirements in RC 9.234 per the 2005 budget bill (HB 66) do **not** alter the AOS’ statutory requirement to audit CICs or DCs.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring 		

² Being non-profit under chapter 1702 is not enough to be a CIC. To be a CIC requiring an AOS audit, the entity must be incorporated under both 1702 & 1724. (A Development Corp. would only be incorporated under chapter 1726.) Read the articles and see if they refer to chapters 1724 or 1726. Merely entitling an entity an improvement or development corporation is not sufficient. The articles of incorporation must support that the entity falls under 1724 or 1726.

³ We are aware of only four DC, and at least two of them are inactive. Development corporations organized under ORC 1726 are stock-issuing entities.

<ul style="list-style-type: none"> • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Read the corporation’s annual report. Determine if it complies with GAAP in material respects. Determine if the corporation filed its report with the AOS within 120 days of fiscal year end.</p> <p>If a corporation does not file its annual GAAP financial statement report within 210 days of fiscal year end, or does not present auditable records within 90 days of the Auditor of State’s determination of unauditability:</p> <ul style="list-style-type: none"> • The Chief Auditor will consult with the Chief Deputy Auditor. The Chief Deputy Auditor will determine whether to request the Legal Division to issue a subpoena for the accounting records. • IPA firms should contact the Regional Chief Auditor regarding these matters. 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

**New section per HB 364,
effective 4/08/03**

4-3 Compliance Requirements: : Per ORC 3314.024: A management company providing services to a community school and charging more than twenty percent of the school’s annual gross revenues shall provide a detailed accounting, including the nature and costs of the services it provides to the community school. This information shall be included in the footnotes of the financial statements of the school and be subject to audit during the school’s regular financial audit.

Summary of Requirement: This footnote should list management company expenses during the year by object codes (e.g., salaries, supplies, etc.). Pursuant to Ohio Rev. Code § 3314.03(A)(8), community schools must use the Uniform Schools’ Accounting System (USAS), which requires classifying costs by function and object codes. *Also*, This footnote should differentiate between the direct costs and any overhead costs a management company allocates to a community school.

Since AOS deems this information material, failing to provide an adequate level of audit assurance (as described above) will require AOS to qualify a school’s statements for omitting a required disclosure, or will require a scope qualification for an inability to audit the footnote. Finally, AOS will report this as material noncompliance with Ohio Rev. Code § 3314.024.

See Auditor of State Bulletin 2004-009 for more information.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests

The management company may elect to have AOS (or contracting IPA’s) audit this information at the management company. AOS will examine the books, records, and other supporting documentation prepared and maintained by the management company.

Alternatively, AOS will accept a management company's independently audited financial statements as meeting the requirements of Ohio Rev. Code § 3314.024, provided the audit meets the audit and disclosure requirements set forth in the following paragraph. (IPA’s may elect to follow this guidance.).

Where a management company manages more than one community school or has other

“lines of business” in addition to managing a community school, AOS will require a statement showing direct and allocated indirect (e.g., overhead) expenses for each school. The companies should present this statement in a combining or consolidating format (i.e., present a column for each school). Additionally, the American Institute of Certified Public Accountant’s (AICPA) audit and accounting guide, *Not-for-Profit Organizations*, sections 14.09 and 14.10 permits organizations to present this as supplemental information. Notes to the supplemental information should briefly describe the method used to allocate overhead costs. Since overhead allocations require subjective judgment, their amounts and allocation method should be considered disclosures of higher inherent risk. (An example disclosure is in Appendix A to Bulletin 2004-009.).

Where a management company’s sole business is providing services to one community school, the company’s audited statements should suffice, if the statements classify expenses in substantial conformance with USAS object codes. (IPA’s may elect to follow this guidance.

The community school’s audit opinion must extend to the combining or consolidating columns. Auditors of community schools must set their materiality threshold to include assurance the supplemental information for each school is not materially misstated. Opinions that report only on the individual school statement’s fair presentation in relation to the management company’s basic financial statements do not provide sufficient audit assurance, unless accompanied with an agreed-upon procedures report related to the supplemental information.

Agreed Upon Procedures Guidelines

A management company may decide to issue financial statements for which its independent auditors have only opined on the fair presentation of individual community school expenses by object code in relation to the company’s basic statements taken as a whole. As this Bulletin describes, this does not provide AOS with enough assurance to provide an unqualified opinion on a community school’s disclosure of management company expenses. However, we can accept this presentation if the auditor provides us an agreed-upon procedures report following these guidelines.

1. The engagement should follow Chapter 2, Agreed-Upon Procedures Engagements, from the AICPA’s *Statement on Standards for Attestation Engagements No. 10* (SSAE 10).
2. Per SSAE 10, 2.11, AOS will be a specified party permitted to rely on the report.
3. As a specified party, AOS requires the following procedures:
 - a. Haphazardly or randomly select 100 direct nonpayroll expense transactions (checks, EFTs, etc.) the management company charged to its community schools.
 - b. Compare the amount charged to the school to supporting documentation, including a canceled check (or EFT documentation, etc.) and vendor invoice, supporting that the cost:
 - i. Is a direct expense benefiting the school.
 - ii. Is recorded for the proper amount for the proper period in the accounting system.

<ul style="list-style-type: none"> iii. Is charged to a proper object code. c. Haphazardly or randomly select 100 direct payroll expense transactions, including salaries and benefits the management company charged to its community schools. d. Compare the amount charged to the school to supporting documentation, including a canceled check and to personnel files supporting that the cost: <ul style="list-style-type: none"> i. Is a direct expense paid to an employee for services provided solely to the school ii. Is the cost recorded for the proper amount for the proper period in the accounting system iii. Is the cost charged to a proper object code e. Haphazardly or randomly select 100 expense transactions assigned to any indirect cost pool. <ul style="list-style-type: none"> i. Compare the transaction to source documentation, such as vendor invoice, personnel file, etc. supporting the cost indirectly benefits the schools or other activities to which it is allocated. ii. Determine the transaction is recorded for the proper amount for the proper period in the accounting system. iii. Obtain an understanding of the method the management company uses to pool and assign indirect costs to individual schools. Recompute selected allocations for conformity with the method. iv. Compare the results from steps e.(i.) through e.(iii.) with the overhead allocation disclosure in the footnote. Report any material departures from the footnote description in terms of the actual method used and any projected dollar effects of the departure. 4. As stated in SSAE 10, 2.25, auditors should report all instances of noncompliance, such as costs charged to a school where documentation does not support it directly benefited the school, or for which insufficient documentation exists. 5. The community school’s auditor must judge whether any deficiencies in the agreed-upon procedures report requires the opinion to be qualified regarding the footnote. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

New section per
HB 204, effective
11/05/04

If you are auditing a county, ORC 117.111(A) mandates that we complete this step, if a county implemented significantly updated electronic records or signatures related to commercial (i.e. financial) transactions. This requirement applies to IPAs auditing counties.

4-4 Compliance Requirement: Ohio Rev. Code Section 117.111(A) Security controls over counties' electronic signatures and records.

Summary of Requirement: The AOS (and IPAs contracting to audit counties) **must** inquire into the method, accuracy and effectiveness of any procedure a county office adopts under ORC 304.02 to secure electronic signatures or records.⁴

Other statutes relevant to this requirement:

Per ORC 304.01:

(B) "County office" means any officer, department, board, commission, agency, court, or other instrumentality of a county.

(E) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

► Note: The signature can be by a county employee or a citizen transacting with the county.

ORC 304.02: Prior to a county office using electronic records and electronic signatures, a county office shall adopt, in writing, a security procedure to verify that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. A security procedure includes, but is not limited to, a procedure requiring algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

ORC 955.013 permits paying dog and kennel registration fees by financial transaction devices (e.g. credit cards), including via the internet.

ORC 1306.11: (A) An electronic record of information satisfies record retention laws.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Accounting system designed to capture the required information • Accounting policies and procedures 		

⁴ Note: Since the legislature has mandated this step, we should deem qualitative materiality to be significant.

<p>manuals</p> <ul style="list-style-type: none"> • Knowledge and training of accounting personnel • Legislative and Management Monitoring 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<ol style="list-style-type: none"> 1. Determine the records the county processes that use electronic signature or otherwise transacts electronically. These include: <ol style="list-style-type: none"> a. Automated accounting systems; b. Payroll and other checks/warrants the county issues with signatures; c. Cash receipts where the county accepts credit/debit cards. d. Internet transactions, encompassing everything from dog licenses to direct deposit receipts or payments. 2. Obtain and read the <i>written</i> security policy the county adopted to safeguard the transaction. <ol style="list-style-type: none"> a. Retain a copy or summary of the policy in the permanent file. b. Update systems' documentation as needed.⁵ 3. Assess the effectiveness of the design of controls and determine that they have been "placed in operation." (AOS staff can refer to AOSAM 30500.45 -- .46.) 4. If we assess CR at less than the maximum level or low, test monitoring or application controls related to electronic transactions and signatures. 5. Determine whether results from the steps above regarding the design and operation of controls related to securing electronic signatures and transactions result in any management comments, reportable conditions or material weaknesses we must also report as a noncompliance finding. Since the statute explicitly refers to a written security policy, we should report the absence of a written security policy. 		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

⁵ AOS staff should update the RCEC where needed to incorporate electronic transactions, including controls and policies designed to safeguard electronic transactions. Also, consider the appropriate degree of ISA involvement. AOS audit staff must consult with ISA when a government has a complex IT environment (AOSAM 30500.49). Also consider that the nature of electronic transactions and signatures subject to this law may require ISA assistance.

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Section D: Accounting requirements applicable to all public offices

While this OAC section was effective in 2000, auditors should consider citing it to support audit findings related to significant deficiencies in accounting records.

4-5 Compliance Requirement: Ohio Admin. Code Section 117-2-02(D) Accounting records**Summary of Requirement:**

All local public offices may maintain accounting records in a manual or computerized format. The records used should be based on the nature of operations and services the public office provides, and should consider the degree of automation and other factors. Such records **should** include the following:

- (1) Cash journal, which typically contains the following information: The amount, date, receipt number, check number, account code, purchase order number, and any other information necessary to properly classify the transaction.
- (2) Receipts ledger, which typically assembles and classifies receipts into separate accounts for each type of receipt of each fund the public office uses. The amount, date, name of the payor, purpose, receipt number, and other information required for the transactions can be recorded on this ledger.
- (3) Appropriation ledger, which may assemble and classify disbursements or expenditure/expenses into separate accounts for, at a minimum, each account listed in the appropriation resolution. The amount, fund, date, check number, purchase order number, encumbrance amount, unencumbered balance, amount of disbursement, and any other information required may be entered in the appropriate columns.
- (4) In addition, all local public offices should maintain or provide a report similar to the following accounting records:
 - a. Payroll records including:
 - i. W-2's, W-4's and other withholding records and authorizations;
 - ii. Payroll journal that records, assembles and classifies by pay period the name of employee, social security number, hours worked, wage rates, pay date, withholdings by type, net pay, and other compensation paid to an employee (such as a termination payment), and the fund and account charged for the payments;
 - iii. Check register that includes, in numerical sequence, the check number, payee, net amount, and the date;
 - iv. Information regarding nonmonetary benefits such as car usage and life insurance
 - v. Information, by employee, regarding leave balances and usage

- b. Utilities billing records including:
 - i. Master file of service address, account numbers, billing address, type of services provided, and billing rates;
 - ii. Accounts receivable ledger for each service type, including for each customer account, the outstanding balance due as of the end of each billing period (with an aging schedule for past due amounts), current usage and billing amount, delinquent or late fees due, payments received and noncash adjustments, each maintained by date and amount;
 - iii. Cash receipts records, recording cash received and date received on each account. This information should be used to post payments to individual accounts in the accounts receivable ledger described above
- c. Fixed asset records* including such information as the original cost, acquisition date, voucher number, the asset type (land, building, vehicle, etc.), asset description, location, and tag number. Local governments preparing financial statements using generally accepted accounting principles will want to maintain additional data. Fixed assets are tangible assets that normally do not change form with use and should be distinguished from repair parts and supply items.
- d. Each local public office should establish a capitalization threshold* so that, at a minimum, eighty per cent of the local public office's non-infrastructure assets are identified, classified, and recorded on the local public office's financial records.

* These capital assets apply to GAAP and non-GAAP mandated public offices. All public offices should have record of significant capital assets owned sufficient to manage their operations.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Accounting system designed to capture the required information • Accounting policies and procedures manuals • Knowledge and training of accounting personnel • Legislative and Management Monitoring 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
Based on our systems documentation, results of inquiries and other audit procedures, assess whether the accounting system generally complies with the aforementioned requirements. ⁶		

⁶ Note: We would not deem deficiencies with meeting these requirements as reportable GAGAS noncompliance unless a deficiency is also a material weakness. We would normally deem these matters to be material weaknesses only if the matter (1) caused an opinion qualification (including a

Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

scope restriction), (2) contributed significantly to other material noncompliance or fraud, (3) resulted in an unauditible condition, (4) required records reconstruction, or (5) other serious condition. We would also describe the finding as a material weakness in the internal control section of the GAGAS report.

If the deficiency was not as severe as the above circumstances, but nevertheless constituted a “significant deficiency in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the government’s ability to record, process, summarize, and report financial data consistent with management’s assertions in the financial statements,” we would issue a reportable condition without citing this OAC section.

Chapter 5

DEPOSITS AND INVESTMENTS

Depository and investment regulations for political subdivisions from Ohio Rev. Code Chapter 135 generally apply to all public offices other than to charter municipalities which have exempted themselves by charter or ordinance.¹ (See the OCS Legal Matrices Appendix for more specific guidance regarding the applicability of the requirements in this chapter to particular entity types.) Auditors should design audit procedures based on charter municipalities’ own investment and deposit provisions. Provisions of Chapter 135 relating to counties are separate from those pertaining to other subdivisions.

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B Governmental Accounting Standards Board Statement No. 40: Disclosing policies the ORC mandates related to investment and deposit risks

¹ While charter governments can exempt themselves from RC 135, they cannot exempt themselves from Ohio constitutional requirements. Therefore charter governments cannot purchase equity securities, because Article VIII, Sections 4 and 6 of the Ohio Constitution prohibit public bodies from becoming a “stockholder in any joint stock company, corporation or association.”

Section A: Subdivisions Other Than Counties

5-1 Compliance Requirement: Ohio Rev. Code Section 135.14 and 133.03(A)(1) – Eligible investments for **interim** monies; section 135.13: **inactive** deposits and maturities.

Summary of Requirements:

- Investments must mature within 5 years from the settlement date, unless the investment is matched to a specific obligation or debt of the subdivision, or unless other provisions apply. [RC 135.14(D)]
- The following classifications of obligations are eligible for such investment or deposit:
 - United States obligations or any other obligation guaranteed as to principal and interest by the United States.² This law prohibits investing in stripped principal or interest obligations. [135.14(B)B(1)]
 - Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality. All federal agency securities must be direct³ issuances of federal government agencies or instrumentalities. [135.14(B)(2)]
 - Interim deposits in the eligible institutions applying for interim monies as provided in Ohio Rev. Code § 135.08. [135.14(B)(3)]
 - Per 135.13, *Interim deposits* are certificates of deposit⁴ maturing not more than one year from the deposit date, or savings or deposit accounts, including passbook accounts.
 - Bonds or other obligations of the State of Ohio. [135.14(B)(4)]
 - No-load money market mutual funds consisting exclusively of obligations described in (B)(1) or (2) of Ohio Rev. Code § 135.14 (i.e. the investments listed in the first two bullets above), and repurchase agreements secured by such obligations, provided the government purchases the money market mutual fund **only** through eligible institutions mentioned in Ohio Rev. Code § 135.03 (which are, generally, Ohio banks and national banks authorized to do business in Ohio). [135.14(B)(5)] Also, per RC 135.01(O)(2), these funds must have the highest letter or numerical rating provided by at least one nationally recognized standard rating service.

² See Appendix A for a list of agencies the Federal government guarantees.

³ An example of an *indirect* issuance would be a FNMA CMO (collateralized mortgage obligation), where FNMA pools mortgages it guarantees. However, the mortgages are not a direct issuance of FNMA

⁴ It is the position of the Auditor of State that RC Sections 135.03 & 135.32 prohibit purchasing certificates of deposit (negotiable or otherwise) from a bank unless the CD is subject to inspection by the Ohio Superintendent of Financial Institutions. Because the Superintendent inspects only banks domiciled in Ohio, purchasing CD's from out-of-state banks is illegal, unless the bank has an office in Ohio. Also, a government cannot purchase negotiable or nonnegotiable CDs unless the governing body has designated the bank as eligible to hold interim or inactive deposits. See ADAM 2002-05.

- The Ohio Subdivisions Fund (STAR Ohio) as provided in Ohio Rev. Code § 135.45. [135.14(B)(6)]
 - Chapter 133 securities (generally debt instruments Ohio State & local governments have issued) [RC 133.03].
- Per RC 135.14(E), the treasurer or governing board may also enter into a repurchase agreement with any *eligible institution* mentioned in Ohio Rev. Code § 135.03 or any *eligible dealer* pursuant to Ohio Rev. Code § 135.14(M). (*Eligible institutions* per RC 135.03 include national banks, or Ohio savings banks, but do not include credit unions, non Ohio savings banks or savings association. *Eligible dealers* per RC 135.14(M) are national association of securities dealers members (NASD), banks, savings bank, or savings and loan associations regulated by the superintendent of financial institutions, or institutions regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system.) In these agreements, the treasurer or governing board purchases, and such institution or dealer agrees unconditionally to repurchase any of the securities listed in division (B)(1) to (5) of § 135.18,⁵ except letters of credit described in division (B)(2) are not permitted for repurchase agreements.
- The market value of securities subject to an overnight repurchase agreement must exceed the cash invested subject to the repurchase agreement by 2%. A term repurchase agreement may not exceed 30 days and must be marked to market daily.⁶
 - All securities purchased pursuant to a repurchase agreement are to be delivered into the custody of the treasurer or governing board or an agent designated by the treasurer or governing board.⁷
 - Repurchase agreements must be in writing. They must require that, for each transaction, the participating institution provide:
 - (a) the par value of the securities;
 - (b) the type, rate, and maturity date of the securities;
 - (c) a numerical identifier (e.g., a CUSIP number) generally accepted in the industry that designates the securities.

⁵ Ohio Rev. Code § 135.18(B) (1) - (10) are summarized in Ohio Compliance Supplement Section 5-4.

⁶ The dealer would be responsible for marking the securities, not the government.

⁷ Counterparties (e.g. banks) accomplish this by maintaining a separate “customer” account at the Federal Reserve designated as a customer account. (For purposes of GASB 40, we currently believe securities held in a customer account would not be exposed to custodial risk.)

⁸ Note: The ORC still uses the definition of a derivative taken from GASB Technical Bulletin 94-1. GASB Technical Bulletin 2003-1 now uses the FASB No. 133 definition of a derivative. So, for legal compliance purposes, governments must follow the ORC definition. For financial reporting, governments must follow the GASB definition. For example, an interest rate swap would be subject to GASBTB 2003-01 derivative disclosure requirements, but is *not* illegal.

- Agreements by which the treasurer or governing board agrees to sell securities owned by the subdivision to a purchaser and agrees with that purchaser to unconditionally repurchase those securities (i.e., *Reverse Repos*) are prohibited. [RC 135.14(E)]
- Derivative Investments are prohibited. *Derivative*⁸ means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States Treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative.
 - An eligible investment described in Ohio Rev. Code § 135.14 with a variable interest rate payment or single interest payment, based upon a single index comprised of other eligible investments provided for in division (B)(1) or (2) of § 135.14 (see above), is **not** a derivative, if the variable rate investment has a maximum maturity of 2 years. [RC 135.14(C)] (Therefore, an investment with a variable interest rate indexed to Federal securities would be legal. However, an investment indexed to the London Interbank Offered Rate (LIBOR) or to a bank's prime rate would not be legal.)
 - OAG Opinion 99-26 deemed collateralized mortgage obligations to be illegal derivatives.
 - A treasury inflation-protected security (TIPS) is permissible for counties only, per ORC 135.35 (B).
- Article VIII, Sections 4 and 6 of the Ohio Constitution prohibit public bodies from becoming a "stockholder in any joint stock company, corporation or association."
 - However, Article VIII, Section 6 of the Constitution provides an exemption which allows public bodies to purchase insurance from mutual insurance companies (Note that insured parties of mutual insurance companies become stockholders.).
 - The AOS also does not believe ORC 135 prohibits a government from **holding stock donated** to it. (However, considering the volatility of many equity securities, our management letter should recommend liquidating stock, if liquidation does not violate a trust or other agreement.)
- Per RC 135.14(F), a government cannot purchase an investment unless it reasonably expects to hold it until maturity. NOTE: We believe the intention of this section is to reduce the likelihood a government would suffer losses on early redemptions required due to inadequate cash flow planning. See the description of audit procedures for more information.
- Per RC 135.14(G), subdivisions may not pay interim moneys into an investment pool except:
 - The Ohio Subdivision's Fund (STAR Ohio) pursuant to § 135.14(B)(6).
 - A fund created solely to acquire, construct, own, lease, or operate municipal utilities pursuant to Ohio Rev. Code § 715.02 or Ohio Const. Art XVIII, §4.
- Leveraging (a government using its current investment assets as collateral for purchasing other investments) is prohibited. [RC 135.14(H)]
- Issuing taxable notes for arbitrage is prohibited. [RC 135.14(H)]

<ul style="list-style-type: none"> ➤ Governments cannot contract to sell securities not yet acquired (short sales), for the purpose of purchasing such securities on the speculation that their price will decline. [RC 135.14(H)] ➤ Payment for securities may be made only upon delivery of the securities to the treasurer, governing board, or qualified trustees, or, if not represented by a certificate, only upon receipt of confirmation of transfer from the custodian. [RC 135.14(M)(2)] ➤ Proceeds from refunding securities must be held in the debt service fund or in escrow, and shall be invested in direct obligations of or obligations guaranteed as to payment by the United States that mature or are subject to redemption by and at the option of the holder not later than the date or dates when the moneys, together with interest or other investment income accrued on those moneys, will be required to refund the debt. [RC 133.34(D)]. ➤ <u>Ohio Rev. Code § 135.13 requires depositing <i>inactive</i> funds in certificates of deposit maturing not later than the end of the depository designation period or by savings or deposit accounts, including, but not limited to, passbook accounts. (Chapter 7 includes a test of depository designations.)</u> 		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<p>Select a representative number of investments and:</p> <ol style="list-style-type: none"> 1. Read investment dealer confirmations* to determine if the investment is of a type authorized. <p>* Note: Dealer confirmations are suitable evidence supporting the details (e.g. valuation, occurrence) of an investment at the time of purchase. However, it provides no evidence the government still owned the investment as of its fiscal year end. We require other evidence to support existence at year end. The audit program should include suitable existence steps.</p> <ol style="list-style-type: none"> 2. Determine that the investments mature within the prescribed limits (generally no later than 5 years, but 1 year for interim deposits in a certificate of deposit, or <i>other</i> 		

⁹ “Emergency” premature sales can result in losses. If inadequate cash flow planning contributed to the need to sell early, we should cite them. In other circumstances, a government may choose to redeem a security early at a loss in order to re-invest at a greater overall rate of return. We would not deem this latter circumstance to violate the intent of RC 135.14(F).

<p>periods for repurchase agreements, bankers' acceptances and commercial paper.)</p> <ol style="list-style-type: none"> 3. Inspect documentation supporting repurchase agreements and determine that: <ol style="list-style-type: none"> a. The market values of securities exceed the principal values of securities subject to the overnight repurchase agreement by 2%. b. A term repurchase agreement did not exceed 30 days and the values of the securities were marked to market daily. c. Repurchase agreements were in writing, including the par value of the securities; the type, rate, and maturity date of the securities; and a numerical identifier. 4. <u>Read the prospectus for money market mutual funds with which the government has significant investment. Determine whether the prospectus limits investments to those authorized under RC 135.14(B)(1) & (B)(2). (B)(1) & (B)(2) describe Federally issued or insured securities. (B)(1) & (B)(2) would not include, for example, reverse repos consisting of Federal securities or securities other states issue.</u> 5. <u>Determine whether money market mutual funds have the highest credit rating issued by one national ratings agency (such as that S&P, Moody's or Fitch issues).</u> 6. <u>Regarding RC 135.14(F), scan investment records to determine whether the government is selling securities prior to maturity. If a significant number or amount of premature sales occurred because the government had an emergency need for cash, review the CFO's cash flow forecasts supporting that the government had reasonable support, at the time of purchase, that it could hold the security to maturity. <i>If there is inadequate cash flow planning,</i>⁹ cite this section. The noncompliance finding should also recommend the government improve its cash flow forecasting. The finding should also describe any losses the government suffered from these sales.</u> 7. <u>If the government hires an investment manager for all or a portion of its investments, obtain copies of investment summary reports the manager prepares.</u> <ol style="list-style-type: none"> a. <u>Read the agreement between the manager and the government. Determine if the agreement (or the investment policy Step 5-2 describes) requires the manager to comply with all applicable RC 135 requirements. Maintain a copy or summary of the agreement in the permanent file.</u> b. <u>Test selected investments from the reports for compliance with steps 1 – 5 above.</u> c. <u>Scan purchases and sales to determine whether the manager sells securities prior to their maturity for other than an urgent need for cash.</u> d. <u>(Note that for financial audit purposes, an investment manager may constitute a service organization under SAS 70 & 92.)</u> 	
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<p>Note: The steps above should normally be sufficient for most governments. Because we believe the risk of governments engaging in certain prohibited activities such as leveraging, short sales or arbitrage violations is low, there are no steps included to test these requirements. You should scan the other requirements in this step, and based on your knowledge of the government’s investing activities, investigate them if evidence suggests the government may have materially violated these requirements.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

5-2 Compliance Requirement: Ohio Rev. Code Sections 135.14 – Other Requirements.

Summary of Requirements:

- Per 135.14(O)(1), Investments or deposits under Section 135.14 cannot be made unless a written investment policy approved by the treasurer or governing board is on file with the Auditor of State, with the following two exceptions:
 - Per 135.14(O)(2), If a written investment policy is not filed with the Auditor of State, the treasurer or governing board can invest only in interim deposits, STAR Ohio, or no-load money market mutual funds.
 - Per 135.14(O)(3), A subdivision whose average annual portfolio of investments is \$100,000 or less need not file an investment policy, provided that the treasurer or governing board certifies to the Auditor of State that the treasurer or governing board will comply and is in compliance with the provisions of Section 135.01 to 135.21.
- Per 135.14(O)(1), The investment policy must be signed by:
 - All entities conducting investment business with the treasurer or governing board (except the Treasurer of State);
 - All brokers, dealers, and financial institutions, described in Section 135.14(M)(1), initiating transactions with the treasurer or governing board by giving advice or making investment recommendations;
 - All brokers, dealers, and financial institutions, described in Section 135.14(M)(1), executing transactions initiated by the treasurer or governing board.
- If any securities or certificates of deposit purchased are issuable to a designated payee or to the order of designated payee, the designated party is to be the treasurer and the treasurer’s office.
- If the securities are registerable either as to principal and/or interest, then the securities are to be registered in the treasurer’s name.
- The treasurer is responsible for safekeeping all the documents evidencing a deposit or investment. Any securities may be deposited for safekeeping with a qualified trustee as provided in Section 135.18 of the Revised Code.
- Except for investments in securities described in Section 135.14(B)(5) and (6) (no-load money funds, certain repos and STAR Ohio) and for investments by a municipal corporation in the issues of that municipal corporation, all investments must be made through:
 - members of the National Association of Securities Dealers, Inc. (NASD); or
 - institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System.

In determining how the government	What control procedures address the	W/P
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ensures compliance, consider the following:	compliance requirement?	Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<p>Read the government’s investment policy for the period.</p> <p>Inspect documentation that the policy was approved by the treasurer or governing board and is on file with the Auditor of State. <u>(We need not repeat this step every audit. Keep a copy in the permanent file, and inquire whether the government has amended the policy since the prior audit.)</u></p> <p>Inspect the policy for the requisite signatures:</p> <ul style="list-style-type: none"> • All entities conducting investment business with the treasurer or governing board (except the Treasurer of State); • All brokers, dealers, and financial institutions initiating transactions with the treasurer or governing board by giving advice or making investment recommendations; • All brokers, dealers, and financial institutions executing transactions initiated by the treasurer or governing board. • Select a representative number of investments made by the entity and determine whether the investments are in accordance with the entity’s investment policy as adopted by the entity’s legislative body. <p>Determine if the policy requires financial institutions, brokers and dealers to comply with RC 135. (There is no legal requirement to include this, but if the policy does not include this requirement, we should recommend the government amend their policy to require compliance.)</p> <p>If there is no written investment policy filed with the Auditor of State, scan the government’s investment portfolio for the period to determine that it is composed solely of interim deposits, STAR Ohio, or no-load money market mutual funds, or that its average annual size is \$100,000 or less. Inspect documentation certifying that the treasurer or governing board will comply and is in compliance with the provisions of Sections 135.01 to 135.21. Inspect documentation that the certification was filed with the Auditor of State</p> <p>Select a representative number or amount of investments:</p> <ul style="list-style-type: none"> • Inspect purchase documents and determine that investments were made only through members of NASD, or institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System. 		

<ul style="list-style-type: none">• For certificates of deposit, inspect documentation that any designated payee is the treasurer or treasurer's office; and that the CDs are in the treasurer's name.	
Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):	

5-3 Compliance Requirements: Ohio Rev. Code Section 135.142 (school districts), 135.14(B)(7) (other subdivisions) – Additional investments allowable for subdivisions other than counties.

Summary of Requirements: Ohio Compliance Supplement Section 5-1 identifies certain investments that are eligible for **interim** monies. In addition to those investments, subdivisions can invest interim monies as follows:

- Up to twenty-five per cent of interim moneys available for investment in either of the following [135.142(A) for school districts; 135.14(B)(7) for other subdivisions]:

Commercial paper notes issued by an entity defined in section 1705.01(D), Revised Code (see definition below) and that has assets exceeding five hundred million dollars, to which all the following apply

- A. The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.
- B. The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.
- C. The notes mature not later than one hundred eighty days after purchase.

Bankers acceptances of banks insured by the FDIC and to which both of the following apply:

- A. The obligations are eligible for purchase by the Federal Reserve System.
 - B. The obligations mature not later than one hundred eighty days after purchase.
- Boards of education must authorize the treasurer to invest in commercial paper or bankers acceptances by a 2/3 majority vote. [135.142(A)] (Once authorized, the authorization remains effective unless the policy changes. Therefore, we need not test this every audit. We should maintain documentation of the approval in the permanent file.)

- “Entity” means any of the following [1705.01(D)]:
 - A. A for profit corporation existing under the laws of this state or any other state;
 - B. Any of the following organizations existing under the laws of this state, the United States, or any other state:
 - i. A business trust or association;
 - ii. A real estate investment trust;
 - iii. A common law trust;
 - iv. An unincorporated business or for profit organization, including a general or limited partnership;
 - v. A limited liability company.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals 		

<ul style="list-style-type: none"> • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures – Compliance (Substantive) Tests</p>		
<ol style="list-style-type: none"> 1. Inspect dealer confirmations of the commercial paper notes purchased and determine that the entity has maintained related documentation that the: <ol style="list-style-type: none"> a. Commercial paper was rated in the highest classification by two standard rating services. b. The paper mature not later than 180 days after purchase. 2. Inspect dealer confirmations of the bankers acceptances purchased and determine that the entity has maintained related documentation that the: <ol style="list-style-type: none"> a. Banks are insured by the Federal Deposit Insurance Corporation b. Dealer confirmations should indicate if banker’s acceptances were NOT eligible for purchase by the Federal Reserve System. Read the confirmation to determine whether the banker’s acceptance was ineligible. (A statement of ineligibility would indicate an ineligible investment, per RC 135.142(A) for school districts or 135.14(B)(7) for other non-county entities. c. The acceptances mature not later than 180 days after purchase 3. For school districts, assure the permanent file documents the resolution authorizing the treasurer to invest in commercial paper and / or bankers acceptances. 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

**Minor revision
per HB 524, effective
June 28, 2002**

5-4 Compliance Requirements: Ohio Rev. Code Sections 135.18 (specific collateral) and 135.181 (pooled collateral) – Security for repaying public deposits.

Summary of Requirements: The treasurer of a political subdivision must require the depository to provide security equal to the funds on deposit at all times. Security may consist of federal deposit insurance, surety company bonds, or pledged securities. [Section 135.18].

Depositories may pledge the following securities under the subsections of Section 135.18(B) listed below:

- (1) Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise;
- (2) Bonds, notes, debentures, letters of credit, or other obligations or securities issued by any federal government agency, or instrumentality, or the export-import bank of Washington; bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the full faith of the United States is pledged for the payment of principal and interest thereon, by interpretation or otherwise and not by language appearing in the instrument specifically providing such guarantee or pledge;
- (3) Obligations of or fully insured or fully guaranteed by the United States or any federal government agency or instrumentality;
- (4) Obligations partially insured or partially guaranteed by any federal agency or instrumentality;
- (5) Obligations of or fully guaranteed by the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit Bank, or Student Loan Marketing Association;
- (6) Bonds and other obligations of this state;
- (7) Bonds and other obligations of any county, township, school district, municipal corporation, or other legally constituted taxing subdivision of this state, which is not at the time of such deposit, in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivision is pledged.
- (8) Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds;
- (9) Shares of no-load money market mutual funds consisting exclusively of obligations described in division (B)(1) or (2) of Section 135.18 [these sections are (1) & (2), above] and repurchase agreements secured by such obligations.

(10) A surety bond issued by a corporate surety licensed by the state and authorized to issue surety bonds in this state pursuant to Chapter 3929 of the Revised Code, and qualified to provide surety bonds to the federal government pursuant to 96 Stat. 1047 (1982), 31 U.S.C.A. 9304.

By written notice to the treasurer, an institution designated as a public depository may designate a qualified trustee¹⁰ and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the treasurer (and the institution). In this case, the treasurer accepts the trustee's written receipt describing the securities which have been deposited with the trustee by the public depository. All such securities so deposited with the trustee are deemed to be pledged and deposited with the treasurer. [Section 135.18(D)].

Any federal reserve bank¹¹ or branch located in this state or Federal Home Loan Bank is qualified to act as trustee for the safekeeping of securities.

Any institution mentioned in Section 135.03 is qualified to act as trustee for the safekeeping of securities, other than those belonging to itself, under this section.

135.181

In lieu of the specific pledging requirements of Section 135.18, a public depository at its option may pledge a single pool of eligible securities to secure the repayment of all its public deposits not otherwise secured, provided that at all times the total market value of the securities so pledged is at least equal to one hundred five per cent of its total public deposits to be secured by the pooled securities, including the portion of these deposits covered by any federal deposit insurance.

The securities described in division (B) of section 135.18 (described above), shall be eligible as collateral, provided no such securities pledged as collateral are at any time in default as to either principal or interest.

A public depository must designate a qualified trustee (i.e., the Federal Reserve) and deposit the eligible pledged securities with that trustee for safekeeping. The depository must give written notice of the qualified trustee to any treasurer depositing public monies for which such securities are pledged. The treasurer shall accept the written receipt of the trustee describing the pool of securities so deposited by the depository. [Section 135.181(E)].

Upon request of a treasurer up to 4 times per year, a *public depository* must report: the amount of public monies deposited by the treasurer and secured and the total value based on the valuations described above, of the pool of securities pledged to secure public monies held by the depository, including those deposited by the treasurer [section 135.181(L)].

Upon request of a treasurer up to 4 times per year, a *qualified trustee* must report the total value of the securities pool deposited with it by the depository and provide an itemized list of pooled securities. The trustee must make these reports as of the date the treasurer specifies.

¹⁰ All securities eligible as collateral are book-entry only and held at the Federal Reserve. Therefore, by holding the securities at the Federal Reserve, the financial institution is complying with RC 135.18(D).

¹¹ The Federal Reserve Bank of Cleveland sometimes uses the Boston Federal Reserve Bank for safekeeping. We do not deem this arrangement to violate this provision.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<ul style="list-style-type: none"> • Compare depository balances to the amount of pledged securities and other depository collateral during the audit period, noting maximum amounts on deposit at any time. Calculate (or inspect, if available, the government’s calculations) if legal security equaled or exceeded depository balances. • Inspect the financial institution’s listing of pledged securities. Select a few securities and determine if the institution pledged only eligible securities. (When determining the extent of testing, auditors should consider that we do not require a high level of assurance, so a “few” items should be sufficient. Auditors can reduce or eliminate this testing based on the assessed level of control risk* and past experience with the financial institution. Therefore, if the government documents its review of collateral eligibility, or we have not noted eligibility problems in prior audits, we can reduce or eliminate this test.) <p>* “Control risk” in this context refers to the <i>government’s</i> controls, if any, over reviewing their financial institutions’ collateral lists. The AOS has no basis for assessing a financial institution’s control risk.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

5-5 Compliance Requirements: Article XII, Section 5a, Ohio Constitution; Ohio Rev. Code Sections 135.21, 5705.10 and 5705.131; 1982 Op. Atty Gen. No. 82-031, and 7 CFR Part 210.2, 210.5, and 210.14(a) – Allocating interest among funds.

Summary of Requirements: The distribution of interest earned on monies held for the treasuries of other subdivisions (i.e. as fiscal agent or custodian) is generally subject to Ohio Rev. Code Sections 135.21 and 5705.10, although specific exceptions may exist. As a general rule:

- Interest earned on monies deposited by a treasurer which do not belong in the treasury of the subdivision, due to their status as custodial funds,¹² because he is acting as ex officio treasurer, or otherwise, generally must be apportioned to the funds to which the principal belongs Funds. [RC 135.21]

All other interest earned must be credited to the general fund of the subdivision [RC 135.21], with the **following exceptions:**

- Interest earned on money derived from a motor vehicle license or fuel tax must follow the principal. [Article XII, Section 5a, Ohio Const. and 1982 Op. Atty Gen. No. 82-031.
- Federal regulations may require local governments to credit interest earned on federal money to the fund to which the principal belongs. 7 CFR Part 210.2, 210.5, and 210.14(a)
- Interest earned on principal of a non-expendable trust fund¹³ established to receive donations or contributions that the donor or contributor requires to be maintained intact must be credited to the non-expendable trust fund to which the principal belongs. [Section 5705.131].

School District Exceptions:

- The board of education of any school district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose, or any other fund of the district as the board specifies in its resolution. [Section 3315.01(A)].

This procedure does not apply to the earnings made on the investment of a school district's bond retirement fund, the sinking fund, a project construction fund established pursuant to Sections 3318.01 to 3318.20 of the Revised Code (see school Classroom Facilities Assistance Program requirements in OCS Chapter 2), or the payments districts receive from the school foundation program. [Section 3315.01(B)].

- All investment earnings of a school district project construction fund shall be credited to the fund. After the project has been completed:

(A) Any investment earnings remaining in the project construction fund attributable to the school district's contribution to the fund shall be transferred to the district's maintenance fund required by division (B) of Section 3318.05 of the Revised Code, and the money shall be used

¹² Custodial funds include all fiduciary funds.

¹³ For accounting purposes, funds this RC section describes would now be permanent funds or private-purpose trust funds under GASB 34.

solely for maintaining the classroom facilities included in the project. [RC 3318.12(C)(1)]

(B) Any investment earnings remaining in the project construction fund that are attributable to the state's contribution to the fund shall be transferred to the state commission for expenditure pursuant to RC 3318.01 to 3318.20. [RC 3318.12(C)(2)]

- All revenue, as defined in 7 CFR 201.2, received by or accruing to the food service fund of any school district including but not limited to, children's payments, earnings on investments, and other local revenues should be credited to and used by those funds. (7 CFR 210.2, 210.5 and 210.14 (a)).

Cemetery Exception:

- Interest earned on a cemetery bequest fund is credited to that fund. [RC 5705.10]

Library Exception:

- The board of library trustees of any free public library district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose or any other fund of the district as the board specifies in its resolution. [RC 3375.391]
- This does not apply to the earnings made on the investment of any library bond retirement fund or any sinking fund. [RC 3375.391]

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
Trace a representative selection of interest earned during the fiscal year and determine that it was paid into the proper funds.		
Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Section B: County and County Hospital Requirements

The provisions of Chapter 135, Ohio Rev. Code, relating to counties (and county hospitals) are in separate sections from the provisions relating to all other subdivisions. However, in most cases the requirements are very similar.

5-6 Compliance Requirement: Ohio Rev. Code Sections 135.34, 135.341 – Investment advisory committee; county commissioners’ review of investment policies.

Summary of Requirements:

Ohio Rev. Code Section 135.341(A) establishes in each county a county investment advisory committee of 3 members:

- 2 county commissioners; and
- the county treasurer

The board of county commissioners *may* declare that all 3 county commissioners shall serve on the county investment advisory committee. If the board so declares, the county investment advisory committee consists of 5 members:

- the 3 county commissioners;
- the county treasurer; and
- the clerk of court of common pleas of the county

The committee elects its own chair, and committee members receive no additional compensation. [135.341(B)]

The committee must meet at least once every 3 months to review or revise its policies and to advise the investing authority (generally the county treasurer) on county investments, with the objective of ensuring the best and safest return of funds to the county. Any member of the committee, upon giving 5 days’ notice, may call a committee meeting. The committee’s policies may establish a limit on the period of time that moneys may be invested in any particular type of investment. [135.341(C)]

The committee is authorized to retain the services of an investment advisor, provided that the advisor is registered with the Securities and Exchange Commission and possesses public funds investment management experience, specifically in the area of state and local government investment portfolios, or the advisor is an eligible institution mentioned in Section 135.03. [135.341(D)]

The committee shall act as the investing authority in place of the treasurer for purposes of investing county funds and managing the county portfolio when this authority is transferred to it pursuant to divisions (E)(1) and (F)(2) of section 321.46 of the Revised Code or when ordered to do so by a court pursuant to section 321.47 of the Revised Code. For these purposes, the committee shall retain the services of an investment advisor described in division (D) of this section. [135.341(E)]

The board of county commissioners may semiannually review investment procedures of the investing authority. Whenever such reviews indicate that the investing authority has failed to invest inactive monies of the county as provided by law or in “documented substantial, material, and continuing” disregard of the advice or policies of the investment advisory committee, the board notifies the investing authority of its findings. If at the next review it determines that such procedures have not been corrected, the board may designate, by resolution, a different investing authority. This may include the board of county commissioners, one of its members, or one of its employees. Thereafter,

<p>until rescinded by resolution of the board, the investing authority is as designated by the board. [Section 135.34]</p> <p>All or part of the moneys determined not to be necessary to meet current county hospital demands may be invested by the hospital trustees in any classifications of securities eligible for deposit or investment of county moneys pursuant to RC 135.35, subject to the approval of the board's written investment policy by the county investment advisory committee established pursuant to RC 135.341. [RC 339.06]</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures – Compliance (Substantive) Tests</p>		
<p>Read minutes and records of the county investment advisory committee and determine that the committee is meeting at least quarterly and has established written county investment policies.</p> <p>Obtain a copy of the written investment policies established by the committee. Examine a representative selection of investment transactions to determine whether the investing authority is complying with the committee's policies.</p> <p>Inquire (or read minutes) as to the results of any quarterly reviews of the county investment procedures by the board of county commissioners and determine whether appropriate action was taken by the board.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Revisions per OAG Opinion 99-026, SB 82 (effective 6/12/04); and per HB 168 (effective 6/15/04).

5-7 (a) Compliance Requirements: Ohio Rev. Code Section 135.35- Eligible Investments for inactive county money (county hospitals may invest in these same securities, per RC 339.06).

Summary of Requirements:

- Investments must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it.
- The following classifications of securities and obligations are eligible for deposit or investment:
 - United States obligations or any other obligation guaranteed as to principal or interest by the United States, or any book entry, zero-coupon United States treasury security that is a direct obligation of the United States. [RC 135.35(A)(1)]
 - Stripped principal or interest obligations are not permitted. Except, Federally-issued or Federally-guaranteed stripped principal or interest obligations are permitted. [RC 135.35(A)(1)]
 - Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality. All federal agency securities must be direct issuances of federal government agencies or instrumentalities. [RC 135.35(A)(2)]
 - Time certificates of deposit¹⁴ or savings or deposit accounts, including passbook accounts, in any eligible institution mentioned in Section 135.32. [RC 135.35(A)(3)]
 - Bonds and other obligations of this state or the political subdivisions of this state provided that such political subdivisions are located wholly or partly within the same county as the investing authority. [RC 135.35(A)(4)]
 - No-load money market mutual funds consisting exclusively of obligations described in Section 135.35(A)(1) or (2) (see above), or repurchase agreements secured by such obligations, if purchased from eligible institutions mentioned in Section 135.32 (generally, **Ohio** banks and national banks authorized to do business in Ohio. [RC 135.35(A)(5)]*
 - No-load money market mutual funds if rated in the highest category at the time of purchase by at least one nationally recognized standard rating service and invested exclusively in:

¹⁴ It is the position of the Auditor of State that RC Sections 135.03 & 135.32 prohibit purchasing certificates of deposit (negotiable or otherwise) from a bank unless the CD is subject to inspection by the Ohio Superintendent of Financial Institutions. Because the Superintendent inspects only banks domiciled in Ohio, purchasing CD's from out-of-state banks is illegal, unless the bank has an office in Ohio.

- United States treasury bills, notes, bonds, or any other obligations or securities issued by the United States treasury or any other obligation guaranteed as to principal and interest by the United States, Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality or corporate commercial paper rated in the highest category by two ratings agencies (i.e. securities RC 135.143(A)(1), (2) or (6) permits);
- Bonds, notes, debentures, or any other obligations or securities issued by any federal government agency or instrumentality; Commercial paper issued by any corporation incorporated under the laws of the United States or a state, which notes are rated at the time of purchase in the two highest categories by two nationally recognized rating agencies [RC 135.35(A)(10)]*

*** Note:** RC 135.35(A)(5) and (A)(10) are similar. (A)(5) permits buying money market mutual funds which invest in repurchase agreements, but does not authorize commercial paper, and requires purchasing the fund through a bank. (A)(10) permits buying money market mutual funds which invest in commercial paper but does not authorize repurchase agreements. (A)(10) also permits purchasing a mutual fund through a bank or through a broker dealer. A county can follow either or both sections.

- The Ohio Subdivision's Fund (STAR Ohio) as provided in Section 135.45. [RC 135.35(A)(6)]
- Securities lending agreements with any eligible institution mentioned in Section 135.32 that is a member of the Federal Reserve System or Federal Home Loan Bank, or with any recognized U.S. government securities dealer,¹⁵ under the terms of which agreements in the investing authority lends securities and the eligible institution agrees to simultaneously exchange either similar securities described in Section 135.35(A)(1) or (2) or cash or both securities and cash, equal value for equal value. [RC 135.35(A)(7)]
- Up to twenty-five per cent of the county's total portfolio in either of the following [RC 135.35(A)(8)]:

¹⁵ ORC 135.35(J)(1) defines these security dealers as being "members of the national association of securities dealers, through a bank, savings bank, or savings and loan association regulated by the superintendent of financial institutions, or through an institution regulated by the comptroller of the currency, federal deposit insurance corporation, or board of governors of the federal reserve system."

¹⁶ As of the date this OCS was issued, we are aware the United States does not recognize the following nations: Cuba, Bhutan, Iran, North Korea, Sudan, Somalia, and the Republic of China (Taiwan).

¹⁷ Ohio Compliance Supplement Step 5-4 summarizes Ohio Rev. Code § 135.18(B)(1) to (10).

¹⁸ Counterparties (e.g. banks) accomplish this by maintaining a separate "customer" account at the Federal Reserve designated as a customer account. (For purposes of GASB 40, we currently believe securities held in a customer account would not be exposed to custodial risk.)

¹⁹ Note: The ORC still uses the definition of a derivative taken from GASB Technical Bulletin 94-1. GASB Technical Bulletin 2003-1 now uses the FASB No. 133 definition of a derivative. So, for legal compliance purposes, governments must follow the ORC definition. For financial reporting, governments must follow the GASB definition.

Commercial paper issued by an “entity” that is defined in division (D) of section 1705.01 of the Revised Code (see definition below) and that has assets exceeding five hundred million dollars, to which notes all of the following apply:

- The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation.
- The notes are rated at the time of purchase in the highest classification established by at least two nationally recognized standard rating services.
- The notes mature not later than ~~180~~ 270 days after purchase.

Bankers acceptances of banks that are insured by the federal deposit insurance corporation and to which both of the following apply:

- The obligations are eligible for purchase by the Federal Reserve System.
- The obligations mature not later than one hundred eighty days after purchase.

No investment shall be made in commercial paper or bankers acceptances unless the treasurer or governing board has completed additional training for making those investments. The type and amount of additional training shall be approved by the auditor of state and may be conducted by or provided under the supervision of the auditor of state.

“Entity” means any of the following [RC 1705.01(D)]:

1. A for profit corporation existing under the laws of this state or any other state;
 2. Any of the following organizations existing under the laws of this state, the United States, or any other state:
 - i. A business trust or association;
 - ii. A real estate investment trust;
 - iii. A common law trust;
 - iv. An unincorporated business or for profit organization, including a general or limited partnership;
 - v. A limited liability company.
- Per ORC 135.35(A)(9), up to fifteen per cent of the county’s total average portfolio in notes issued by corporations incorporated under U.S. law and that operate within the United States, or by depository institutions doing business under U.S. authority or any state’s authority, and that operate within the United States, provided both of the following apply:
 - The notes are rated in one of the two highest categories by at least two nationally recognized standard rating services at the time of purchase;
 - The notes mature not later than two years after purchase.
 - Per ORC 135.35(A)(11) up to 1% of its portfolio in the debt of foreign nations, if:
 - Rated at the time of purchase in the three highest categories by two nationally recognized standard rating services
 - The U.S. government recognizes it diplomatically.¹⁶

- All interest and principal shall be denominated and payable in United States funds.
- The foreign government guarantees the debt.
- The debt matures within five years of purchase.
- The investing authority may also enter into a written repurchase agreement with any eligible institution mentioned in Ohio Rev. Code Section 135.32 or any eligible dealer pursuant to Ohio Rev. Code Section 135.35(J), under the terms of which agreement the investing authority purchases, and the eligible institution or dealer agrees unconditionally to repurchase any of the securities listed in divisions (B)(1) to (5) of § 135.18, except letters of credit described in division (B)(2) are not permitted for repurchase agreements¹⁷. The market value of securities subject to an overnight repurchase agreement must exceed the principal value of securities subject to a repurchase agreement by 2%. A term repurchase agreement may not exceed 30 days and the value of the securities must be marked to market daily. [RC 135.35(D)]
 - All securities purchased pursuant to a repurchase agreement are to be delivered into the custody of the investing authority or the qualified custodian of the investing authority or an agent designated by the investing authority.¹⁸ [RC 135.35(D)]
 - Repurchase agreements with an eligible securities dealer must be transacted on a delivery versus payment basis.
 - Repurchase agreements must be in writing. For each transaction, the participating institution must provide:
 1. the par value of the securities;
 2. the type, rate, and maturity date of the securities;
 3. a numerical identifier (e.g., a CUSIP number), generally accepted in the industry, designating the securities.
 - Securities which are the subject of a repurchase agreement may be delivered to the treasurer or held in trust by the participating institution if it is a designated depository of the subdivision for the current period of designation. [135.35(I)].
- Agreements by which the investing authority agrees to sell securities owned by the county to a purchaser and agrees with that purchaser to unconditionally repurchase those securities (*Reverse Repos*) are prohibited.
- Investment in derivatives is prohibited. A *derivative*¹⁹ is a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Any security, obligation, trust account, or other instrument that is created from an issue of the United States Treasury or is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative.
 - * An eligible investment described in Ohio Rev. Code Section 135.14 with a variable interest rate payment or single interest payment, based upon a single index comprised of other eligible investments provided for in division (A)(1) or (2) of Section 135.35, is **not** a derivative, if the variable rate investment has a maximum maturity of 2 years.
 - * OAG Opinion 99-26 deemed collateralized mortgage obligations to be derivatives.

<p>* <u>A treasury inflation-protected security (TIPS) shall not be considered a derivative for counties, provided the security matures not later than five years after purchase (RC 135.35(B).</u></p> <p>➤ Per 135.35(E): No investing authority can invest under Section 135.35, unless the investment authority reasonably expects that the investment can be held until its maturity. The investing authority’s written investment policy should specify the conditions under which an investment may be redeemed or sold prior to maturity.</p> <p>➤ Per 135.35(F), no investing authority may pay a county’s inactive moneys, or moneys of a county library and local government support fund, into an investment pool <i>other than</i>:</p> <ul style="list-style-type: none"> • the Ohio Subdivision’s Fund (STAR Ohio) pursuant to Section 135.35(A)(6) • a fund created solely for the purpose of acquiring, constructing, owning, leasing, or operating municipal utilities pursuant to Ohio Rev. Code Section 715.02 or Ohio Const. Art XVIII, Section 4. <p>➤ A county may not leverage its investments. (That is, a county cannot use its current investments as collateral to purchase other investments.) [RC 135.35(G)]</p> <p>➤ A county cannot issue taxable notes for arbitrage purposes. [RC 135.35(G)] (That is, a county cannot invest the proceeds of taxable notes hoping to earn a higher return on the proceeds than the interest rate on the TAN.)</p> <p>➤ A county cannot contract to sell securities it does not own. (These are called <i>short sales</i>, where a county purchases the rights to a security solely on the speculation that its price will decline.) [RC 135.35(G)]</p> <p>➤ Payment for investments shall be made only upon the delivery of securities representing such investments to the treasurer, investing authority, or qualified trustee. If the securities transferred are not represented by a certificate, payment shall be made only upon receipt of confirmation of transfer from the custodian by the treasurer, governing board, or qualified trustee. [135.35(J)(2)]</p>		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<p>Select a representative number of investments and:</p> <ol style="list-style-type: none"> 1. Read investment dealer confirmations* to determine if the investment is of a type authorized. 		

* Note: Dealer confirmations are suitable evidence supporting the details (e.g. part of the valuation [cost] and occurrence assertions) of an investment at the time of purchase. However, it provides no evidence the county still owned the investment as of its fiscal year end. We require other evidence to support existence at year end. The audit program should include suitable existence steps.

2. Determine that the investments mature within the prescribed limits (generally no later than 5 years, or *other* periods for repurchase agreements [30 days], bankers acceptances and commercial paper [180 or 270 days, respectively, from the purchase date], or securities matched to debt maturities, etc.)
3. Inspect documentation supporting repurchase agreements and determine that:
 - a. The market values of securities exceed the principal values of securities subject to the overnight repurchase agreement by 2%.
 - b. A term repurchase agreement did not exceed 30 days and the values of the securities were marked to market daily.
 - c. Repurchase agreements were in writing, including the par value of the securities; the type, rate, and maturity date of the securities; and a numerical identifier.
4. For investments in Bankers Acceptances and Commercial Paper Notes, inspect documentation and determine whether the additional training was received.
5. Read the prospectus for money market mutual funds with which the government has significant investments. Determine whether the prospectus limits investments to those authorized under RC 135.35(A)(1) & (A)(2) or 135.143(A)(1), (2) or (6).
6. Determine whether mutual funds, commercial paper, and any notes of U.S. corporations have the necessary credit rating issued by national ratings agencies (such as that S&P, Moody's or Fitch issues).
7. Inspect dealer confirmations of the bankers acceptances purchased and determine that the county has maintained related documentation that the:
 - a. Banks are insured by the Federal Deposit Insurance Corporation
 - b. Dealer confirmations should indicate if banker's acceptances were **NOT** eligible for purchase by the Federal Reserve System. Read the confirmation to determine whether the banker's acceptance was **ineligible**. (A statement of ineligibility would indicate an **ineligible** investment, per RC 135.35(A)(8)(b)(i).
8. Scan the county's computation of the composition of its investments. Determine if the portfolio contains ≤:
 - a. 1% foreign national securities
 - b. 15% debt of U.S. corporations
 - c. 25% commercial paper + bankers acceptances
9. Scan investment records to determine whether the county is selling securities prior to maturity. If a significant number or amount of premature sales occurred:
 - a. Determine whether the premature sales complied with the county's policy regarding early redemption. (We believe the policy should generally require sufficient cash flow planning to support that the county had sufficient cash at the time of purchase so that a premature sale would not

<p>be needed to meet emergency cash flow needs. Forced premature sales often result in losses.)</p> <p>b. Review the county’s cash flow forecasts supporting that the county had reasonable support at the time of purchase that it could hold the security to maturity. If there is inadequate cash flow planning necessitating premature sales, cite this section and recommend the government improve its cash flow forecasting. The finding should also describe any losses the government suffered from these sales.</p> <p>Note: The steps above should normally be sufficient for most counties. Because we believe the risk of counties engaging in certain prohibited activities such as leveraging, short sales or arbitrage violations is low, there are no steps included to test these requirements. You should scan the other requirements in this step, and based on your knowledge of the county’s investing activities, investigate them if evidence suggests the county may have materially violated these requirements.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

5-7 (b) Compliance Requirements: Ohio Rev. Code Section 135.35 – Other County and County Hospital [RC 339.06] Requirements.

Summary of Requirements:

- Investment or deposit under Section 135.35 cannot be made unless a written investment policy approved by the investing authority (for hospitals, the authority is the county hospital board, per RC 339.06) is on file with the Auditor of State. If a written investment policy is not filed with the Auditor of State, the investing authority may invest only in certificates of deposit, savings or deposit accounts, STAR Ohio, or no-load money market mutual funds.
- The investment policy must be signed by:
 - All entities conducting investment business with the investing authority (except the Treasurer of State);
 - All brokers, dealers, and financial institutions, described in Section 135.35(J)(1), initiating transactions with the investment authority by giving advice or making investment recommendations;
 - All brokers, dealers, and financial institutions, described in Section 135.35(J)(1), executing transactions initiated by the investing authority.
- An investment made by the investing authority pursuant to Section 135.35 prior to September 27, 1996 that was a legal investment under the law before September 27, 1996 may be held until maturity. If the investment does not have a maturity date, it may be held until September 27, 2001, regardless of whether the investment would qualify as a legal investment under the terms of Section 135.35 as amended.
- The investing authority is required to inventory all obligations and securities. The inventory includes a description of each obligation or security, including type, cost, par value, maturity date, settlement, date, and any coupon rate.
- The investing authority is required to keep a complete record of all purchases and sales of the obligations and securities.
- The investing authority is required to keep a monthly portfolio report and issue a copy of the monthly report describing its investments to the county investment advisory committee. This report indicates:
 - the current inventory of all obligations and securities,
 - all transactions during the month that affected the inventory,
 - any income received from the obligations and securities, and
 - any investment expenses paid.
 - The names of any persons executing transactions on behalf of the investing authority.
- The inventory and the monthly portfolio report are public records and must be filed with the board of county commissioners.

<ul style="list-style-type: none"> ➤ Any securities, certificates of deposit, deposit accounts, or any other documents evidencing deposits or investments must be issued in the name of the county with the county treasurer as the designated payee. [Section 135.35(H)]. ➤ If any such deposits or investments are registerable as to principal and/or interest, they must be registered in the name of the treasurer. [Section 135.35(H)]. ➤ The investing authority is responsible for safekeeping documents evidencing a deposit or investment. Securities and documents confirming the purchase of securities under any repurchase agreement may be deposited with a qualified trustee. [135.35(I)]. ➤ Where securities, including securities which are the subject of a repurchase agreement, have been delivered to a qualified trustee for safekeeping, the qualified trustee must report on request to the treasurer, governing board, Auditor of State, or authorized IPA as to the identity, market value, and location of the document evidencing each security. ➤ All investments in securities except investments described in division (A) (5) and (6) [no load money market mutual funds and certain repos] are required to be made through <ul style="list-style-type: none"> • members of the National Association of Securities Dealers, Inc., or • institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System. [135.35(J)(1)]. ➤ Payment for securities may be made only upon delivery of the securities to the treasurer, investing authority, or qualified trustee, or, if in book-entry form, only upon confirmation of delivery to such parties. [135.35 (J)(2)] 		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<p>Read the county’s investment policy for the period.</p> <p>Inspect documentation that it was filed with the Auditor of State. Inspect the policy for the requisite signatures:</p> <ul style="list-style-type: none"> • All entities conducting investment business with the county (except the Treasurer of State); • All brokers, dealers, and financial institutions initiating transactions with the county by giving advice or making investment recommendations; 		

<ul style="list-style-type: none"> • All brokers, dealers, and financial institutions executing transactions initiated by the county. • Select a representative number of investments made by the entity and determine whether the investments are in accordance with the county’s investment policy as adopted by the county’s legislative body. <p>Determine if the policy requires financial institutions, brokers and dealers to comply with RC 135. (There is no legal requirement to include this, but if the policy does not include this requirement, we should recommend the government amend their policy to require compliance.)</p> <p>If there is no written investment policy filed with the Auditor of State, scan the county’s investment portfolio for the period to determine that it is composed solely of certificates of deposit, savings or deposit accounts, STAR Ohio, or no-load money market mutual funds.</p> <p>Select a representative number or amount of investments and:</p> <ul style="list-style-type: none"> • Inspect documentation that any designated payee is the treasurer or treasurer’s office; and that registerable securities are registered in the treasurer’s name. • Inspect purchase documents and determine that investments were made through appropriate parties: members of the National Association of Securities Dealers, Inc., or institutions regulated by the Superintendent of Banks, Superintendent of Savings and Loan Associations, Comptroller of the Currency, Federal Deposit Insurance Corporation, or Board of Governors of the Federal Reserve System. Compare purchase dates and payments and determine that payment for securities was made upon delivery of the securities or upon receipt of confirmation of transfer from the custodian. • Inspect copies of the investing authority’s (i.e. treasurer’s) inventory documents: scan the documents and determine if it appears the inventory includes a description of each obligation or security, including type, cost, par value, maturity date, settlement, date, and any coupon rate; the inventory reflects a complete record of all purchases and sales of the obligations and securities; and that the county is keeping a monthly portfolio report and is issuing a quarterly investment report describing its investments to the county investment advisory committee. 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

<p>5-8 Compliance Requirement: Ohio Rev. Code Section 135.37 – Security for repaying county (and county hospital) public deposits.</p> <p>Summary of Requirement: Depository security requirements for county (and county hospital) monies parallel the requirements of other governmental entities pursuant to RC 135.18. RC 135.37(F) expressly permits counties to follow the pool collateral requirements of RC 135.181. See Ohio Compliance Supplement Section 5-4 for more information.</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures – Compliance (Substantive) Tests</p>		
<p>See Ohio Compliance Supplement Section 5-4.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

5-9 Compliance Requirements: Article XII, Section 5a, Ohio Constitution; Ohio Rev. Code Sections 135.351 and 5705.10 & .131; and 1982 Op. Atty Gen. No. 82-031, – Allocating interest among county funds.

Summary of Requirements: Ohio Rev. Code Sections 135.351(A) and 5705.10 govern the distribution of interest earned on money in the county treasury. Generally, all interest must be credited to the county general fund. The following are exceptions to this general rule:

- Ohio Rev. Code Section 135.351(B) establishes requirements for distributing monies belonging to other subdivisions which are invested or deposited by the county. If such monies are not distributed as required in divisions (B) (1), (2), or (3), Section 135.351(C) requires that all interest accruing after the required distribution date be paid to the subdivisions.
- Interest earned on money derived from a motor vehicle license or fuel tax must be paid into the fund to which the principal belongs, not to the general fund. Article XII, Section 5a, Ohio Constitution; 1982 Op. Atty Gen. No. 82-031.
- Federal statutory or regulatory requirements may require that interest earned on monies received from the federal government be paid into the fund to which the principal belongs. This must be determined on an individual basis with each federal program.
- Interest earned on money in the county treasury belonging to a metropolitan park district established under Chapter 1545, Ohio Rev. Code, must be paid into the fund to which the principal belongs. [RC 1545.22(B)(1), as referenced from 135.351(A)].
- Interest earned on the investment of monies in the county library and local government support fund must be credited to that fund [Section 135.352].
- Interest earned on principal of a non-expendable trust fund²⁰ established to receive donations or contributions that the donor or contributor requires to be maintained intact must be credited to the non-expendable trust fund to which the principal belongs. [Section 5705.131].

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		

²⁰ For accounting purposes, funds the RC describes in this section would now be *permanent funds or private-purpose trust funds* under GASB 34.

Trace a representative selection of interest earned during the fiscal year and determine that it was paid into the proper funds.	
Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):	

Section C: Community Schools

<p>5-10 Compliance Requirements: Pursuant to RC 3314.04, ORC 135 does not apply to community schools. However, other entities may impose restrictions on investments, collateral, etc. Such entities could be grantors, creditors, the sponsor, board policy, etc. Auditors should identify and list any applicable requirements below:</p> <p><i>[Insert applicable depository and investment requirements.]</i></p>		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests		
<p><i>[Insert applicable audit procedures. See other OC S Sections for example audit procedures.]</i></p>		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Appendix A Federal Agencies

Discount notes	US Govt. Guaranteed?
Fed Farm Credit Banks (Instrumentality)	No
FNMA (Fannie Mae) (Instrumentality)	No
Fed Home Loan Bank (Instrumentality)	No
Variable Rate Notes	
Student Loan Marketing Assn (Sally Mae) (Instrumentality)	Not directly
Small Business Administration (Agency)	Face value + int.
Agency for International Development (Agency)	Face value + int.
Coupon Securities	
FNMA (Fannie Mae) (Instrumentality)	No
Fed Home Loan Bank Instrumentality)	No
Bank for Co-ops (Instrumentality)	No
Federal Land Banks (Instrumentality)	No
World Bank (International Agency)	No
Private Export Funding Corp (Instrumentality)	No
Mortgage pass-through securities	
GNMA (Ginny Mae) (Agency)	Principal + int.
FHLMC (Freddie Mac) (Instrumentality)	No

This information is from GFOA’s *Investing Public Funds*, Page 115. It describes many of the agencies with which governments invest. If a government invests with an agency not on this list, the financial statement preparer and the auditor need another source to determine whether the Federal government insures the agency’s securities.

Appendix B

Governmental Accounting Standards Board Statement No. 40

Policies the ORC mandates related to investment and deposit risks

GASB 40 is effective for financial statement periods beginning after June 15, 2004. The GASB encourages early adoption. Paragraph 6 requires governments to *briefly* describe policies related to the following risks for deposits and investments, *if* the government has instruments exposed to those risks:

<u>Risk</u>	<u>Deposits</u>	<u>Investments</u>
Credit		✓
Custodial credit	✓	✓
Concentration of credit		✓
Interest rate		✓
Foreign currency	✓	✓

The 2004 GASB *Comprehensive Implementation Guide* (the CIG) question 1.20 implies the Ohio Revised Code is a source of policies requiring GASB 40 disclosure. A summary of ORC requirements related to GASB 40 follows.

The ORC is not the only source of potential policies requiring disclosure. For example, locally adopted policies and charter provisions may also contain policies requiring disclosure. Financial statement preparers must read GASB 40 and should refer to the CIG for more information when preparing GASB 40 disclosures.

ORC section	OCS Step	Requirement	Related GASB 40 Risk
135.14 135.35(A)(10)	5-1 5-7(a)	Per RC 135.01(O)(2), no load money market funds must have the highest credit rating issued by national raters. (Note: Per Imp. Guide Q. 1.40, governments should disclose the rating for mutual funds even if the fund limits investments to obligations the U.S. government guarantees, since it is the fund's rating that is of concern, not its underlying investments.)	Credit risk
135.14 135.35(C)	5-1 5-7a	Investments generally must mature within 5 years of purchase.	Interest rate
135.14 & 135.35	5-1 5-7(a)	Repurchase agreements cannot exceed 30 days.	Interest rate
135.35(C) 135.13	5-7a 5-1	<ul style="list-style-type: none"> • CDs counties purchase must mature within 5 years. • CDs other subdivisions purchase must mature as follows: <ul style="list-style-type: none"> ○ Interim CDs: within one year. ○ Inactive CDs: No later than the expiration of the depository agreement. <p>Note: Only negotiable CDs are <i>investments</i> subject to disclosing policies related to interest rate risk. (Nonnegotiable CDs are deposits.)</p>	Interest rate
135.14 & 135.35	5-1 5-7(a)	The market value of securities for repurchase agreements must exceed the principal value by $\geq 2\%$.	Interest rate
135.14 & 135.35	5-1 5-7(a)	Repurchase agreement securities must be delivered into the custody of the treasurer or governing board or an	Custodial credit

		agent.	
135.45(B)(1)	(Tested by the State Region)	STAR Ohio must maintain the highest letter or numerical rating provided by at least one nationally recognized standard service.	Credit
135.14 & 135.142	5-3	Commercial paper + bankers acceptances cannot exceed 25% of a government's investment portfolio	Concentrations of credit
135.14 & 135.35	5-3 5-7(a)	Commercial paper must be rated in the highest classification by at least two nationally-recognized rating services	Credit
135.14 & 135.35	5-3 5-7(a)	Commercial paper and bankers' acceptances must mature within 180 days. (270 days for a county's commercial paper.)	Interest rate
135.18 & 135.181	5-4, 5-8	Depositories must collateralize deposits.	Custodial credit
135.35	5-7(a)	A county's corporate debt investments must mature within 2 years of purchase.	Interest rate
135.35	5-7(a)	A county's corporate debt investments cannot exceed 15% of its investment portfolio	Concentrations of credit
135.35	5-7(a)	A county's corporate debt investments must be rated in 1 of the 2 highest categories by 2 ratings organizations.	Credit
135.35	5-7(a)	A county's foreign debt investments must mature within 5 years of purchase.	Interest rate
135.35	5-7(a)	A county's foreign debt investments cannot exceed 1% of its investment portfolio	Concentrations of credit
135.35	5-7(a)	A county's foreign debt investments must be rated in 1 of the 3 highest categories by 2 ratings organizations.	Credit
135.13, 135.14 & 135.35	5-1, 5-3, 5-7a	Authorized investments	*

* Note: In additions to the risk-related policies above, GASB Codification I 50.124 still requires disclosing investments the ORC (or other legal or contractual provisions) authorize. The asterisked ORC Sections / OCS steps list authorized investments.

Chapter 6

OTHER POTENTIALLY DIRECT AND MATERIAL LAWS AND REGULATIONS

The Auditor of State has identified the following laws and regulations not elsewhere classified that could directly and materially affect an entity’s financial statements in certain circumstances.

Compliance Requirement **Page**
Chapter 6 - Other Potentially Direct and Material Laws and Regulations

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Section A: Various Entity Types

**Revision per SB 55,
effective January 8, 2004.**

6-1 Compliance Requirement: Ohio Rev. Code Section 9.833 - Health Care Self Insurance ¹

Summary of Requirement: This section requires individual, self-insured governments or joint self-insured health-care programs to calculate (i.e., reserve²) amounts required to cover health care benefit liabilities. (Health care insurance includes, but is not limited to health care, prescription drugs, dental care and vision care.) It also requires programs to prepare a report, within 90 days after the fiscal year-end, reflecting those reserves (i.e., liabilities) and the disbursements made to pay self-insured claims, legal and consultant costs during the preceding fiscal year. This report is not filed with any office, including the Auditor of State; the government should make it available upon request.

An actuary must certify that the amounts reserved are fairly stated in accordance with sound loss reserving principles. The actuary must be a member of the American Academy of Actuaries.

Individual governments subject to this requirement must establish an internal service fund to account for this activity.

Per ORC 9.833(E), some of the aforementioned requirements do not apply to counties, townships, and municipalities. See the matrix appended to Auditor of State Bulletin 2001-05 regarding which provisions apply to various government types.

Note: Auditors should refer to Auditor of State Bulletin 2001-05 for additional guidance.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests

¹ FYI: SB 55, effective Jan. 8, 2004, also permits subdivisions to procure group life insurance for its employees in conjunction with an individual or joint self insurance program. However, neither a government nor a pool can self insure for life insurance. (That is, a government must purchase life policies from commercial insurers.)

² “Reserved” means liabilities measured in accordance with accepted actuarial principles.

<ul style="list-style-type: none"> • Subdivisions³ (except municipalities, townships and counties) must establish an internal service fund to account for health self-insurance activity. Determine if the subdivision established the required fund. • Determine whether the subdivision obtained a report presenting the actuarially-measured liabilities and disbursements. • Inspect the actuary’s certificate (i.e. opinion) that the amounts reserved conform to accepted loss reserving standards. • Test information the client submitted to the actuary to determine this information is supported by the client’s accounting or other applicable records. Testing information the client provides to the actuary is necessary to comply per No. 73, <i>Using the Work of a Specialist</i>. SAS 73 (AU 336.12(b)) when the actuary’s liability calculation is accrued as a GAAP liability⁴ or presented in a cash-basis entity’s notes. • Determine whether the actuary’s opinion language (including the scope of the work) generally complied with the example described in the “Actuarial Opinions” section of Auditor of State Bulletin 2001-05. • Consider whether any qualification in the actuary’s report affects the financial statement opinion or indicates noncompliance with 2744.081. • Determine if a cash-basis (or AOS basis) government’s audited statements disclose self insurance activity based on the example disclosure in Bulletin 2001-05. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.) 	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

³ ORC 9.833 and 2744.08 define a subdivision as any municipal corporation, township, county, school district or other body corporate and politic responsible for governmental activities in a geographic area smaller than the State.

⁴ As Bulletin 2001-005 describes, actuarial principles for measuring these liabilities are similar but not identical to GAAP requirements per GASB 10. A government can use the actuarially-computed liability in its financial statements if it does not materially differ from GAAP measurement requirements.

6-2 Compliance Requirement: Ohio Rev. Code Section 2744.081 - Liability Self Insurance

Summary of Requirement: This section requires joint self-insurance programs (such as governmental self-insurance pools) insuring against judgments, settlement of claims, expense, loss and damages that arise, or are claimed to have arisen, from an act or omission of the subdivision or any of its employees and to indemnify or hold harmless the subdivision’s employees, to reserve⁵ amounts to cover potential costs. It also requires the program to prepare a report, within 90 days after the program’s fiscal year-end, reflecting those reserves (i.e., liabilities) and the disbursements made to pay self-insured claims, legal and consultant costs during the preceding fiscal year. This report is not filed with any office, including the Auditor of State; it should be retained by the government and be made available upon request.

An actuary must certify that the amounts reserved are fairly stated in accordance with sound loss reserving principles. The actuary must be a member of the American Academy of Actuaries.

The aforementioned requirements apply only to governmental risk pools or other joint governmental liability insurance programs.

Note: Auditors should refer to Auditor of State Bulletin 2001-05 for additional guidance.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ul style="list-style-type: none"> • Determine whether a report presenting the actuarially-measured liabilities and disbursements during the year was obtained. • Inspect the actuary’s certificate that the amounts reserved conform to accepted loss reserving standards. • Test information the client submitted to the actuary to determine this information is supported by the client’s accounting or other applicable records. Testing information the client provides to the actuary is necessary to comply per No. 73, <i>Using the Work of a Specialist</i>. SAS 73 (AU 336.12(b) when the actuary’s liability calculation is accrued as a GAAP liability⁶ or presented in a cash-basis entity’s notes. 		

⁵ “Reserve” means liabilities measured in accordance with accepted actuarial principles.

⁶ As Bulletin 2001-005 describes, actuarial principles for measuring these liabilities are similar but not identical to GAAP requirements per GASB 10. A government can use the actuarially-computed liability in its financial statements if it does not materially differ from GAAP measurement

<ul style="list-style-type: none">• Determine whether the actuary’s opinion language (including the scope of the work) generally complied with the example described in the “Actuarial Opinions” section of Auditor of State Bulletin 2001-05.• Consider whether any qualification in the actuary’s report affects the financial statement opinion or indicates noncompliance with 2744.081.• Determine if a cash-basis (or AOS basis) government’s audited statements disclose self insurance activity based on the example disclosure in Bulletin 2001-05. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.)	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

6-3 Compliance Requirement: Ohio Admin Code Sections 3745-27-15 through 18 Landfill Financial Responsibility and Certifications

The following is only a summary. When auditing a government managing a landfill, auditors should obtain and read copies of the applicable OAC sections.

Governments owning or managing landfills must annually certify financial information related to their ability to finance closure and postclosure liabilities to the OEPA. These reports are due within 180 days of fiscal year end.

An index to the relevant OAC requirement follows:

- 3745-27-15: Solid waste facility or scrap tire transporter final closure requirements (Section (L) describes the local government test)
- 3745-27-16: Solid waste facility or scrap tire transporter final postclosure requirements (Section (L) describes the local government test)
- 3745-27-17: Wording of financial assurance instruments (Section (H) describes the wording for the letter governments assured under the local government test must submit to OEPA).
- 3745-27-18: Corrective measures financial assurance required, such as to remediate landfill groundwater contamination. (Section (M) describes the local government requirements.)

I. The Federal EPA adopted a regulation (40 CFR 258.74(f)) allowing governmental solid waste landfills (GSWLFs) to avoid acquiring third-party financial instruments (such as letters of credit, insurance or establishing trust funds) to assure current final closure, postclosure and/or corrective measure cost estimates and any other environmental obligations to the extent they meet certain financial tests. The Federal EPA placed the responsibility for monitoring compliance with this rule on the states. In response, the Ohio EPA adopted a regulation that parallels the Federal regulation in most aspects.

II. A GSWLF need not obtain third-party instruments for amounts up to 43% of the local government's **total revenue**,⁷ *provided* that it meets the tests described in **III** below. A GSWLF must obtain a third-party instrument (e.g., insurance, trust fund, bond) for all current final closure, postclosure and/or corrective measure cost estimates and any other environmental obligations, exceeding 43% of total revenue.

III. There are two alternatives to the third-party financial instruments nongovernments must have for (closure + postclosure + mandated corrective care costs). Governments do not need these instruments (for up to 43% of total annual revenue), if:

Alternative I

a. The GSWLF issues GAAP financial statements.

b. The GSWLF has not:

1. Defaulted on GO bonds, or has not issued GO bonds of less than investment grade per Moody's or S&P.

Local governments issuing bonds secured by collateral or a guarantee (e.g. AMBAC insurance) must meet the minimum rating without that security. (This means consider the *government's* debt rating, not the rating of a particular insured or collateralized *issue*.)

⁷ Terms defined in the *State Support Document for the Local Government Financial Test* are printed in **boldface type** the first time they appear. A copy of this document was sent to each region

2. Has not operated at a deficit of greater than or equal to (5% x annual revenue) in either of the past two fiscal years. (The federal rule defines a deficit as total revenue minus **total expenditures**);
3. Received a qualified opinion.

Also, either condition c. or d. must be met:

- c. All GO bonds must be of investment grade, rated by either Moody's or S&P.

OR:

Alternative II:

- d. The GSWLF must have:
 1. **(Cash + marketable securities)** / total expenditures \geq 5%, AND
 2. **Debt service** / total expenditures \leq 20%, AND
 3. **Long term debt issued & outstanding/ capital expenditures** must be \leq 2.0.

(Based on the federal regulation, we believe that the reference to "outstanding" debt immediately above only refers to debt issued in the current year that is still outstanding at year end.)

IV. Reporting requirements:

- a. The GAAP statements must comply with GASB 18 disclosures (this requirement does not appear in the OAC, but is included in the Federal regulation.) However, OAC 3745-27-15(C)(1)(a) requires final closure financial assurance instrument for a sanitary landfill facility, solid waste transfer facility, solid waste incinerator, or Class I composting facility to contain an itemized written estimate, in current dollars, of the cost of final closure. The final closure cost estimate shall be based on the final closure costs at the point in the operating life of the facility when the extent and manner of its operation would make the final closure the most expensive, and shall be based on a third party conducting the final closure activities.
- b. The CFO must prepare a letter listing current final closure, postclosure and/or corrective measure cost estimates and any other environmental obligations, and certify whether the government meets III.a.-d. (above), and also certify that the government is assuring a liability \leq 43% of annual operating revenues.
- c. Audited financial statements must be kept as part of the "facility's operating record."
- d. Accountants must also issue an agreed-upon procedures report. The procedures must note whether amounts used for the ratios Alternative II above in the CFO's letter agree to the audited GAAP statements.

V. Definitions:

To assure that the CFO's letter is appropriate, it is critical that the financial information be consistent with the definitions in the *State Support Document for the Local Government Financial Test* (the Document). For example, the Document explains that "total expenditures" should not include capital project, internal service or fiduciary fund expenditures/expenses. A copy of the *Document* has been sent to each regional office.

The Federal EPA informed us they do not intend to update the Document for GASB 34. Therefore, we believe the amounts for the accounts described above appearing in the CFO’s letter (cash and marketable securities, revenues, etc.) should be derived from the governmental and proprietary **fund** financial statements, not from the entity-wide financial statements.

VI. Other

1. The Federal regulation gives state directors the option of allowing governments to discount the liability. However, Ohio does not permit discounting. Also, paragraph 42 of GASB 18 prohibits discounting.
2. Both the Federal and State regulations refer to governmental financial statements as *Comprehensive Annual Financial Reports*. However, while the Federal and State rules require GAAP reporting, there appears to be no explicit requirement to prepare a CAFR. In the Auditor of State’s opinion, basic financial statements complying with GASB 18 and including segment information (if applicable) for the landfill operation are sufficient.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals, including copies of updated Ohio Admin. Code Sections 3745-27-15 through 18. • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures - Compliance (Substantive) Tests

NOTE: These procedures relate to the local government test. If a government uses other assurance methods, auditors must read the applicable OAC 3745-27 requirements and design appropriate tests and reports.

For AOS staff: If the reporting differs from the example AUP available to AOS staff on the Briefcase, you must submit your draft report to Accounting & Auditing Support for review.

Determine whether the estimate of closure, postclosure and other corrective care liabilities has been updated through the most recent balance sheet date. Such estimates may require corroboration by an environmental specialist. (The auditor may need to consider SAS 73, *Using the Work of a Specialist*.)

Compare the format of the CFO’s letter to the EPA with the example included in Ohio Admin. Code Section 3745-27-17(H).

Prepare the agreed-upon procedures report required by the Federal EPA. An example report is available to AOS staff in the Audit Briefcase under “Shells”.

If the government cannot meet the government test, or has liabilities exceeding 43% of

<p>annual revenue, inquire which method the government has selected to assure these amounts. If the government has (1) established a final closure trust fund; (2) secured a surety bond guaranteeing payment; (3) obtained an irrevocable letter of credit or; (4) obtained commercial insurance to finance these liabilities, then inspect documentation that the required funds, bonds, letter of credit, or insurance have been obtained, and are in force.</p> <p>GASB 18, paragraph 7(e) requires disclosing the methods /instruments used to finance closure and postclosure care. This requirement applies to OCBOA /cash statements, too.</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

New step per HB 87,
Effective 3/31/03

6-4 Compliance Requirement: Ohio Rev. Code Section 5735.29 – Municipalities, counties and townships: Supplementing rather than supplanting motor fuel excise taxes (the Fuel Excise Tax).

Summary of Requirement: The State increased the Fuel Excise Tax rates from 2 cents per gallon to:

- 4 cents per gallon July 1, 2003;
- to 6 cents per gallon July 1, 2004 and to
- 8 cents per gallon July 1, 2005.

Municipalities, counties and townships should receive a corresponding increase in Fuel Excise Taxes each of these periods. Municipal corporations, counties, and townships must disburse Fuel Excise Taxes for the highway-related purposes stated in RC 5735.29. These purposes include costs related to constructing or maintaining (etc.): state highways, public bridges, public street signs and public traffic lights and certain public harbors and waterways.

Also, each municipal corporation, county, or township shall use at least ninety per cent of all Fuel Excise Taxes to supplement, rather than supplant, other *local*⁸ funds used for highway-related purposes.

The following text from RC 5735.29 describes the allowable uses:

To provide revenue for supplying the state's share of the cost of constructing, widening, maintaining, and reconstructing the state highways; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the expense of administering and enforcing the state law relative to the registration and operation of motor vehicles; to make road improvements associated with retaining or attracting business for this state, to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to provide revenue for the purposes of sections 1547.71 to 1547.78 of the Revised Code; and to supplement revenue already available for such purposes, to pay the expenses of the department of taxation incident to the administration of the motor fuel laws, to supplement revenue already available for such purposes; and to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to enable the counties and townships of the state to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets; to enable counties to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to enable municipal corporations to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; and to pay the costs apportioned to the public under section 4907.47 of the Revised Code, a motor fuel excise tax is hereby imposed on all motor fuel dealers upon their receipt of motor fuel within the state at the rate of two cents on each gallon so received; provided, that effective July 1, 2003, the motor fuel excise tax imposed by this

⁸ The statute does not define *Local funds*. We believe it would be any amounts other than (1) direct or pass-through Federal money, or (2) State Funds paid from the State Treasury or appropriated by the State legislature.

<p><u>section shall be at the rate of four cents on each gallon so received; effective July 1, 2004, the motor fuel excise tax imposed by this section shall be at the rate of six cents on each gallon so received; and, subject to section 5735.292 [5735.29.2] of the Revised Code, effective July 1, 2005, the motor fuel excise tax imposed by this section shall be at the rate of eight cents on each gallon so received. This tax is subject to the specific exemptions set forth in this chapter of the Revised Code. It shall be reported, computed, paid, collected, administered, enforced, and refunded, and the failure properly and correctly to report and pay the tax shall be penalized, in exactly the same manner as is provided in this chapter. Such sections relating to motor fuel excise taxes are reenacted and incorporated as if specifically set forth in this section. The tax levied by this section is in addition to any other taxes imposed under this chapter.</u></p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Accounting system designed to separately identify fuel excise taxes and other State, local or Federal sources restricted or appropriated for road construction / repair, etc. • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<ol style="list-style-type: none"> 1. Scan or otherwise test disbursements from the highway fund(s) into which the government deposits motor Fuel Excise Taxes. Determine whether the disbursements were for highway and related purposes RC 5735.29 permits. 2. Obtain the government’s calculation of disbursements from <i>local funds</i> for highway purposes in the current and preceding year. If local fund disbursements were higher in the current year than the prior year, do not complete the remaining steps. The government has met the requirement. 3. If local fund disbursements decreased in the most recent year, calculate if the total amount of highway disbursements adequately supplemented Fuel Excise Tax contributions as follows: <ol style="list-style-type: none"> (a) Multiply current year Fuel Excise Tax receipts x 10%. (b) Subtract current-year highway local fund disbursements from the prior-year local disbursements from step 2. (c) Determine whether the decrease from step (b) was \geq the amount computed from 3(a) above. We should report material declines of \geq 10% as noncompliance with the supplement not supplant requirement.⁹ 		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable</p>		

⁹ Example: Assume a government receives \$10,000 of Fuel Excise Tax in 2005. The government could reduce its disbursement of *local funds* for road purposes by \leq 10% of this amount in 2005 (i.e., could reduce *local* road disbursements no more than \$1,000 vs. 2004 disbursements).

conditions/material weaknesses, and management letter comments):

Section B: School Districts

6-5 Compliance Requirement: Ohio Rev. Code Sections 3317.03 (E), 3313.981 (F), and Ohio Admin. Code Section 3301-51-13. - School district Average Daily Membership.

Summary of Requirements: Average Daily Membership (ADM) is one variable used to compute school districts’ funding, pursuant to Ohio Rev. Code Section 3317.022(A). Ohio Rev. Code Section 3317.03 defines ADM.

Ohio Rev. Code Section 3317.03 (E) requires a school district to accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. This code provision further delineates which students should and should not be included in a school district’s ADM count on the basis of residency, school attendance, and proficiency testing attendance.

Each school district is responsible for accurately reporting statistics to the Ohio Department of Education’s Educational Management Information System (EMIS), which uses the statistics to compute the school district’s ADM. Of the many statistics required to be reported, one of the most important is the determination of school attendance. Pursuant to Ohio Rev. Code Section 3317.03 (E), a school district’s attendance for ADM purposes is arrived at by determining the number of students *enrolled* during the first full school week in October. This code provision also defines *enrolled* to include students who are handicapped and receiving home instruction, in attendance, or not attending but having an excused absence for a valid legal reason.

When counting the number of students enrolled for ADM purposes, Ohio Rev. Code Section 3313.981 sets the requirements for the inclusion and exclusion of students who live in one district but who are paying tuition and enrolled in another district. A student should be included in the ADM count of the district in which he/she resides and not the district in which he/she pays tuition to attend.

Valid legal reasons for non-attendance from Ohio public schools are set forth in Ohio Admin. Code Section 3301-51-13. Any reason not delineated in this code provision shall be deemed unexcused and the pupil should not be reported as enrolled for that day for ADM purposes. Valid legal reasons for school non-attendance include personal illness, illness in the family, quarantine of the home, death of a relative, work being done at the home due to the absence of parents or guardians, observance of a religious holiday, or emergency circumstances which the school superintendent judges are good and sufficient cause. See Ohio Admin. Code Section 3301-51-13(B)(2)(a-g).

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring and reconciliation • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
Document and evaluate procedures for enrolling and withdrawing pupils, and for processing excused student absences.		

<p>Compare final counts per the EMIS system with the count sheets during ADM week. Seek explanations for any significant differences or adjustments.</p> <p>Perform Analytical Procedures such as:</p> <ul style="list-style-type: none">• Comparing the number of students enrolled as of October of the year under audit and the prior two years. Investigate any unusual or significant changes. All material changes should relate to events such as increased housing in an area, large businesses moving in or out of a school district, and any other major event that may impact enrollment.• Compare counts the week before, the week of, and the week after, the ADM count week. Note any apparent significant differences and seek explanations from management.• Compare this year's counts by building with previous periods. Ask for management's explanation for any significant differences. <p>Where the number of students paying tuition is expected to be significant, inspect documentation that indicates students who are paying tuition to attend are excluded from the school district's ADM (consider using analytical procedures).</p>	
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Revised effective July 1, 2005, per
ODE's revision to OAC 3301-61-16

6-6 Compliance Requirement: Ohio Administrative Code Rule 3301-61-16 (the Rule) regarding *vocational* educational weighted funding, and RC 3317.022(C)(5), *special* education weighted funding

Summary of vocational education requirement: To help assure schools spend the weighted funding on Vocational Education, the State Department of Education adopted this Rule, which:

- (1) Describes allowable costs;
- (2) Provides ~~2 alternative formulas~~ a formula by which school districts can measure whether they have spent sufficient vocational weighted funding. ~~These two formulas appear in subsections A(2)(b) and A(3) of the Rule, respectively.~~ Effective July 1, 2005, the formula appears in subsection (B)(2) of the Rule.

Annually, the Department of Education will ~~certify~~ report the amount school districts must spend to avoid refunding unspent amounts to the Department. A web link to a site with these reports appears in the attached program. Auditors need not have a detailed understanding of the ~~two~~ formulas, since the Department of Education is responsible for those computations.

The ~~A(2)(b)~~ formula requires spending 75% of the weighted revenue ~~certified under A(2)(B)~~ ODE reports on the SF-3 (See web link later in this program) for eligible costs (examples listed below). The remaining weighted funds can be spent for other vocational-related purposes. ~~The A(3) formula requires spending (1) 15% of the certified A(3) formula revenue on the eligible costs listed below and (2) spending no more than 5% for indirect and administrative costs. Schools can annually elect which spending rule they wish to follow [A(2)(B) or A(3)]. However, since the formulas and circumstances differ, some schools will actually require spending less amounts for eligible costs under the A(2)(b) Rule than under the A(3) Rule.~~

Auditors must understand the allowable and unallowable costs, and consider whether a District must record a GAAP liability for under spending or for ineligible costs charged to the weighted funding.

(This OAC requirement also applies to community school vocational education students through RC 3317.014 via RC 3314.08(A)(5).)

Acceptable Career-Technical Vocational Education Expenditures under A(2)(b) & A(3) B(2)	Typical Function Code
1. Curriculum development, including teacher stipends necessary to develop curricula.	2212
2. Student assessment costs, including expenditures for Work Keys, student industry certifications, and Occupational Competency Analysis Profile assessments.	2123
3. Instructional resources and supplies including textbooks	1300
4. Career-technical student organization operational costs including teacher stipends for activities beyond the regular school day and year.	4300
5. Work-site learning experience costs.	1300
6. Extended programming costs including teacher personnel costs for extended programming. Please note the definition of extended programming in the rule is more restrictive than extended service.	1300
7. Marketing costs that are solely attributable to marketing career-technical education programs.	2930
8. Technology costs directly associated with career-technical instruction	2960
9. Costs associated with receiving industry certification of career technical education programs	1300
10. Costs associated with student credentialing, such as the cosmetology certification exam.	1300
11. Instructional equipment.	1300
12. Computers used for instruction.	2960
13. Professional development costs for career-technical educators including administrative staff. These costs do NOT include expenditures required to meet basic teacher licensing requirements.	1300
14. Curriculum consultant costs such as High Schools That Work implementation or career pathways development.	1300 or 2200
15. Teacher and student travel expenses related to instruction.	1300
16. Conference expenses for teachers and administrators such as the All-Ohio Career Technical Conference.	Varies
17. Equipment repairs and service contracts.	1300
18. Specifically metered utility costs that are directly attributable to career technical instructional programming.	1300
19. Instructional materials production costs including copier costs that are directly attributable to vocational instructional activities.	1300

Summary of Requirements (continued):

Under 3301-61-16(A)(2)(b) allowable salaries are only those for teachers ODE has approved for career-technical instruction. This may include the portion of academic teacher time allocated to classes the state has approved for career-technical weighted funding. EMIS reports list classes approved for this funding. (The district can charge only extended programming salaries to meet its 75% requirement; but can pay other teacher salaries from the remaining 25% of weighted funds. ODE must approve any teacher for career technical instruction to charge to any career tech weighted funds.)

Eligible costs encumbered at June 30 are also allowable, to the extent they are subsequently paid in cash.

Examples of ineligible costs under 3301-61-16(A)(2)(b)&(e) (B)(2) and for purposes of meeting the 15% requirement under A(3):

1. Indirect costs based on estimates or percentage allocations. These costs include utilities, administration, general school marketing, etc.
2. Base teacher salary and fringe benefits.¹⁰
3. Facilities construction and remodeling.
4. Costs associated with initial teacher licensing.
5. Expenditures made from any fund other than the general fund, a permanent improvement fund, or the DPIA fund.
6. Any costs associated with instructional programming not receiving career-technical weightings.
7. Student stipends or salaries paid to students.

Summary of Special education weighted funding requirement:

RC 3317.022(C)(5) states in part: "In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount" ODE calculates using the weighted funding formula.

ODE monitors disbursements (including special education staff costs) districts report through the EMIS system under function codes related to special education.

ODE compares amounts districts report as special education function disbursements with special education funding reported on Form SF-3. ODE determines remedies for schools that have spent less than they received for special education weighted funds. The Auditor of State's State Region tests ODE's monitoring system in the State's audit. The State Region annually transmits ODE's list of noncompliant schools to the Auditor of State's local regional offices. Auditors of noncompliant schools should use this list to determine if whether a district complied with RC 3317.022(C)(5).

For additional information, see Auditor of State Bulletin 2000-16.

¹⁰ As an example, a district using the 75% test could not include base teacher salaries or benefits as eligible costs comprising its use of 75% of the funding (except for extended programming). However, a district could pay base teacher salaries and benefits from the remaining 25% of weighted funds, per ~~(A)(2)(e)~~ (B)(1).

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Adequate knowledge of eligible and ineligible costs by persons assigned to code/post disbursements • Periodic summarization of eligible costs compared to certified revenue • Periodic supervisory review of transactions recorded as eligible costs, and analysis of progress towards spending certified funds • Rechecking or comparing amounts entered on a spreadsheet to amounts posted to the USAS system (if a spreadsheet is used) • Annual computation of any refund due to ODE 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<p>Regarding vocational education weighted funds:</p> <ol style="list-style-type: none"> 1. Obtain the amount of weighted funds ODE paid to the school district from the SF-3 report, available at http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=990&Content=22632 2. Obtain an understanding of the method the District uses to measure eligible costs vs. weighted vocational education revenue. (Such methods may include using USAS special cost centers or job codes, or using spreadsheet software to record eligible costs). 3. Inspect and foot or test foot the client’s computation of amounts spent/refundable. 4. Scan summary records of eligible expenditures claimed, and evaluate for reasonableness. 5. Commensurate with assessed control risk and the level of assurance provided from scanning procedures, select a representative number of eligible costs charged. Trace to supporting documentation and determine whether the expenditures were allowable. <p>Regarding special education weighted funds:</p> <ol style="list-style-type: none"> 6. Read the Excel spreadsheet, <u>List of schools in non-compliance with Special Education weighted funds requirements</u> (or the comparable list for JVS districts). The AOS State Region normally provides this approximately the beginning of each December. 7. <u>Scan the listing to determine if the school district you are auditing is listed.</u> 8. <u>Discuss with management any corrective actions ODE has required to address this noncompliance. Considering the materiality of the underspending, report the noncompliance in the management letter or GAGAS report (or verbally if minor in amount).</u> 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

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Section C: Community Schools

<p>6-7 Compliance Requirement: Ohio Rev. Code Section 3314.03(11)(b) - Liability insurance.</p> <p>Summary of Requirement: The governing authority of each community school must purchase liability insurance, or otherwise provide for the potential liability of the school.</p>		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
Secure a copy of the school’s insurance policy and evaluate the reasonableness of the coverage.		
Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

<p>6-8 Compliance Requirement: Ohio Rev. Code Section 3314.08(I) - Tuition.</p>		
<p>Summary of Requirement: No community school is permitted to charge tuition to any student.</p>		
<p>In determining how the government ensures compliance, consider the following:</p> <ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<ol style="list-style-type: none"> 1. Obtain a copy of the school’s enrollment application and scan the receipts journal or ledger for evidence of tuition charges. 2. Inquire of the treasurer regarding any tuition charges. 		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

6-9 Compliance Requirement: Ohio Rev. Code Section 3314.02(E) – Governing authority.

Summary of Requirement: Each new start-up* community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals who are not owners or employees, or immediate relatives of owners or employees, of any for-profit firm that operates or manages a school for the governing authority. For purposes of this section, immediate relatives are limited to spouses, children, parents, grandparents, and in-laws.

In addition, no person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

* A start-up community school is any community school except those converted from public schools.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures - Compliance (Substantive) Tests		
<ol style="list-style-type: none"> 1. Inquire of management and read the minutes to determine whether the Board includes five members. 2. Review the board membership for inappropriate relationships. 3. Inquire of management whether any board members are owners or employees, or immediate relatives of owners or employees, of any for-profit firm that operates or manages a school for the governing authority. 4. Inquire of management and other appropriate personnel whether any board members or individuals responsible for operating the community school owe the state any money or is in a dispute over whether that person owes the state any money concerning the operation of a community school that has closed. 5. Determine whether board members abstained from voting on matters affecting them personally. A board member voting to approve his or her own compensation or other transactions between himself / herself and the school would violate Ohio’s Ethics Law, per Ohio Ethics Commission Advisory Opinion No. 2003-001 6. Obtain representations from management regarding the requirements indicated above. <p>Noncompliance noted per steps 2 -- 5 may result in referral to the Ohio Ethics Commission. Summarize potential ethics issues in a Matter for Attention, and review ethics referral procedures in the Introduction to the Ohio Compliance Supplement.</p>		
Audit Implications (adequacy of the system and controls, and the direct and material effects of		

non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

New section per HB 364, effective 4/08/03

6-10 Compliance Requirement: Sponsor monitoring of community schools:

- The sponsor may contract with the school to receive 3% or less of the amount the State pays to a school annually, solely for the costs of its oversight and monitoring activities.¹¹ [3314.03(C)]
- The contract between the sponsor and the school must require the sponsor to monitor the following [3314.03(D)]:
 - Compliance with laws the contract specifies
 - At least annually, monitor and evaluate the academic and fiscal performance and the organization and operation of the community school
 - Report the results of the preceding evaluation to ODE and to the students' parents.
 - Provide technical assistance to the school in complying with applicable laws and terms of the contract;
 - Intervene in the school's operation to correct problems in the school's overall performance,
 - Declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code,
 - Suspend the operation of the school pursuant to section 3314.072 of the Revised Code,
 - Terminate the contract of the school pursuant to section 3314.07
 - Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year

In determining how the government ensures compliance, consider the following:

What control procedures address the compliance requirement?

- Policies and Procedures Manuals
- Knowledge and Training of personnel
- Tickler Files/Checklists
- Legislative and Management Monitoring
- Management's identification of changes in laws and regulations
- Management's communication of changes in laws and regulations to employees

Suggested Audit Procedures - Compliance (Substantive) Tests

1. Examine the contract between the school and the sponsor. Determine if it provides payment to the sponsor for monitoring activities.
 - a. Trace actual payments to the sponsor to the accounting records to determine whether they were ≤ 3% of the school's State assistance (or met the terms of the contract of the sponsor provides additional services).
2. Inquire regarding the nature and extent of the sponsor's monitoring activities.
 - a. Examine minutes, correspondence, reports or other evidence supporting that the sponsor fulfilled its monitoring duties described above.

¹¹ A sponsor can earn more than 3% if it provides additional services beyond sponsorship. A contract should specify these additional services, and should differentiate them from the services required of a sponsor.

- b. Read the sponsor's annual report to ODE. Based on other audit procedures, judge whether that report suggests the sponsor is diligent in its monitoring and is frank in its reporting to ODE.¹²
3. If based on other audit procedures, the school is experiencing financial or performance problems, judge whether the sponsor is taking the actions the ORC prescribes above (e.g., declaring the school in probationary status, preparing an action plan to address financial difficulties).
4. Assess whether the sponsor's overall monitoring generally fulfills the requirements above. Report significant noncompliance as necessary.

Audit Implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

¹² Staff should not spend significant time reviewing this report. We are not opining or providing any assurance on it. Consider tracing a "handful" of key financial amounts to current or prior audited statements or to accounting records we used in the audits. Read key passages to determine whether they are generally consistent with our understanding. If we find material misrepresentations in the report to ODE, we can report this as noncompliance by the sponsor. Our noncompliance finding should avoid imprecise statements such as "The sponsor's report was inaccurate." Instead, quote statements or amounts from the sponsor's report compared to quotes or amounts we obtained from other sources. List our source in the finding.

Section D: Townships

New step per OAG opinion 2004-036, effective October 19, 2004

6-11 Compliance Requirement: Ohio Rev. Code Section 505.24(C) Allocating township trustee per diem costs or salaries to funds. (Amplified by Ohio Attorney General Opinion 2004-036)

Summary of Requirement, per Ohio Rev. Code Section 505.24(C):

- (1) **Trustees receiving per diem compensation:** The trustees must resolve a method by which each trustee shall periodically notify the township clerk of the number of days spent on township services *and the kinds of services rendered* on those days. The per diem compensation shall be paid from the township general fund or from other township funds in proportion to the kinds of services rendered, as documented. (For example, the township could charge trustee time spent on road repairs to the road & bridge fund.)
- (2) **Trustees receiving compensation by annual salary:** By resolution, RC 505.24(C) permits trustees to receive annual salaries instead of per diem payments. When paid by salary, RC 505.24(C) does not prescribe a “documentation of time spent” requirement.

However, for salaries **not** paid from the general fund, effective October 19, 2004 OAG Opinion 2004-036 requires trustees to establish administrative procedures to document the proportionate amount chargeable to other township funds based on the kinds of services rendered. The “administrative procedures” can be timesheets or a similar method of record keeping, as long as the trustees document all time spent on township business and the type of service performed, in a manner similar to trustees paid per diem compensation. If trustees do not document their time, then no part of salaries may be paid from these other funds.

Per the above, trustees must keep records of the time spent on various tasks and the fund to which the township will charge their costs. (The sole exception to this is for trustees charging all salaries to the general fund, as described above.) There is no one method for documenting time and the kinds of services rendered. A diary, time sheets or other methods will suffice if they include the information described above.

Important note: Prior to this OAG Opinion, regarding (2) above, the AOS accepted resolutions that specified percentages of salaries to allocate to various funds, as complying with RC 505.24(C). This OAG Opinion alters that conclusion. Resolutions to pay trustees by salary should now specify that a township will allocate salaries based on *documentation* the trustees submit, not based on percentages a *resolution specifies*.

For example, subsequent to the OAG Opinion, it is **not** acceptable for a township to resolve that they will “charge 50% of trustee salaries and benefits to the general fund and 50% of this compensation to the road & bridge fund.”

For townships that have allocated salaries based on specified percentages, the AOS will issue a

<p>management letter comment for fiscal years ending through December 31, 2005. The AOS will not issue findings for adjustment for 2005 audits.¹³ However, commencing January 1, 2006, townships must comply with the OAG opinion. Noncompliance with the OAG opinion for subsequent audits may result in:</p> <p>(1) GAGAS level findings and findings for adjustment</p> <p>(2) Scope qualifications in the AOS' opinion on the financial statements because we would have no acceptable evidence supporting how the township allocated salaries to funds.</p> <p>(3)</p>		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Time summaries / timecards • Legislative and Management Monitoring • Management's identification of changes in laws and regulations • Management's communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<ol style="list-style-type: none"> 1. Document how the township records the time spent on each township service. 2. Recompute selected clerk allocations of trustee salaries or per diem amounts to each fund. 3. Trace hours to time sheets, if used. 4. Agree selected postings of the salaries from step 2 to the township's check register. <p>Note: A failure to document the time spent on township tasks would constitute a scope restriction on the allocation of trustee salaries. This could affect our financial statement opinion, if the undocumented allocation is material to the financial statements.</p>		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

¹³ Except: If a township subject to a Federal Single Audit charges undocumented salaries (or other costs) to a Federal program, Federal audit requirements might require reporting this noncompliance as a Federal finding / questioned cost, etc. in the *current* audit.

Chapter 7

CHECKLISTS FOR OTHER LAWS AND REGULATIONS

Due to public policy considerations, the Auditor of State requires auditors to test certain laws and regulations for each audit even though they probably do not, in *most* circumstances, have a quantitative “direct and material” effect on determining financial statement amounts. This *Ohio Compliance Supplement* chapter provides a simplified process for assessing the government’s compliance with these requirements. Auditors can generally complete these tests using inquiry, observation and, occasionally, certain other limited substantive procedures, such as inspection of documents or limited vouching.

The 2006 Ohio Compliance Supplement now labels **some** requirements in Chapter 7 as those which auditors may “cycle.” That is, auditors can limit testing these items to every other audit, such as once every two years if we audit the government annually, or once every four years if we audit the government biennially. This **only** applies to steps Chapter 7 expressly labels as permitting testing every other audit.

Auditors should divide the steps subject to cycling approximately in half, and budget a similar amount for cyclic tests each audit to avoid audit cost fluctuations every other audit.

The *Sample Questions and Procedures* this chapter presents are merely examples of procedures you might use. You should add to, modify, or omit these procedures as appropriate in the circumstances. For example, if existing control tests or substantive compliance tests satisfy these objectives, the auditor should cross-reference this work to these sections.

If the auditor notes instances of noncompliance with these sections, and those instances are not material to the financial statements, report the non-compliance either in the management letter or, if clearly inconsequential as defined in *GAGAS*, they may be reported orally to management.

For example, suppose the compliance requirement is for payroll withholding, and the auditor has documented and tested payroll control procedures that already satisfy the compliance requirements. The documentation of such a process might look something like the following:

-- SAMPLE --

Compliance Requirements: Internal Revenue Code (IRC) Chapter 26 [26 USCA] - Collection of Income Tax at Source on Wages; 26 U.S.C. Sections 3401 through 3406, and related regulations; exceptions; notification of amount withheld; liability of employer; 26 U.S.C. Section 132; Portions of Internal Revenue Regulations (26 C.F.R.) Sections 1.61, 1.6041, and 1.6050E-1.

Ohio Rev. Code Section 5747.06 - Collection of Ohio income tax at source.
Various local ordinances require withholding on wages earned in the particular municipality. These should be consulted for the exact requirements.

Summary of Requirement: These sections of the various tax codes require the employing government

to withhold federal, state, and local income and employment-related taxes (such as Medicare). They also require the government to report those tax matters to the appropriate tax authorities and to the recipients. Certain of these sections require consideration of whether employer provided “fringe” benefits, such as use of government automobiles for private purposes, constitute taxable income to be reported and withheld upon.

-- SAMPLE --

Sample Questions and Procedures

1. What policies and procedures do you have to ensure that the [Entity] is withholding federal, state, and local income taxes as required?

2. How do you ensure that the withholdings are being transmitted periodically to the appropriate jurisdictions as required? Please show me a sample of your tax filing reports.

3. Do you provide any of your employees with taxable fringe benefits, such as the use of a government owned vehicle, or an auto or uniform allowance? If so, how do you determine the amounts of the benefits to be reflected in the affected employees' Forms W-2? Please show me 1 or 2 employees' W-2s that reflect these amounts.

4. Did your government pay any independent contractor (other than a corporation) \$600 or more during this year? If so, please show me a few such Forms 1099 issued.

5. What procedures do you have to ensure that Forms 1099G are being issued for municipal income tax refunds exceeding \$10 each? Please show me a few such 1099s.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
We interviewed Molly McIntyre, treasurer, on July 17, 2006. We also performed tests of controls at various times. See the referenced working papers.	1. We have tested controls ¹ on the payroll system. Our working papers reflect answers to questions 1 and 2. Our tests of controls and the results are found in the referenced working papers. 2. We tested controls over expenditures and contracts, noting no payments required to be reported on forms 1099 (question 4). 3. Based on our inquiry with the treasurer, the superintendent has an auto allowance; however, the treasurer was unaware that it is a taxable benefit (question 3). 4. This is a school district; therefore, question #5 is N/A.	100.15 (payroll) 103.03 (expenditures)

¹ Chapter 7 does not require testing controls. This example illustrates how auditors might sometimes use the results of other audit work to fulfill Chapter 7 requirements. In the example, the auditors tested controls to reduce audit risk related to payroll and nonpayroll expenditures, *not* solely to satisfy Chapter 7 requirements. However, they were able to use the control tests results to help satisfy this Chapter 7 requirement.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Our tests of controls indicated that the controls were operating effectively. Nothing came to our attention to indicate these requirements were not being met.

In the management report on compliance, we will report the failure to include the superintendent's auto allowance as a taxable fringe on his form W-2. There is no material effect on the f/s, therefore no further action is necessary.

Chapter 7 - Checklists

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Part 1: Contracting and Purchasing (General)

7-1 Compliance Requirement: Ohio Rev. Code Sections 307.93(G), 341.25, 753.22, and 2301.57 - Establishment and accounting treatment for commissaries.

Summary of Requirements: Commissaries may be established by a sheriff of a county jail, the director of public safety or the joint board that administers a municipal or municipal-county workhouse, the director of a community-based or district community-based correctional facility, or the corrections commission of a multicounty, municipal-county, or multicounty-municipal correctional center. Once a commissary is established, all persons incarcerated must be given commissary privileges. In addition, the commissary fund rules and regulations for the operation of the commissary must be established by the person establishing the commissary for the correctional facility. The commissary fund must be managed in accordance with the procedures established by the Auditor of State’s Office, which are contained in **Auditor of State Bulletin 97-011**. The revenue generated in the commissary fund in excess of operating costs is considered profit. The profits must be expended for the purchase of supplies and equipment, life skills training, education and/or treatment services for the benefit of persons incarcerated in the correctional facility.

Sample Questions and Procedures

1. Please show me your commissary funds rules and regulations. Who established these rules and regulations?
2. Did you review AOSAB 97-011 to determine if your policies and procedures need updated?
3. Scan a list of expenditures from this fund. Determine that expenditures were for the benefit of those incarcerated (see list of acceptable expenditures above). Note: We do not require high levels of assurance from this procedure. Therefore, the sample sizes we require to obtain high assurance do not apply. Scanning alone should normally be sufficient, unless we have reason to suspect there are significant control or compliance issues.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-2 All Local Governments Compliance Requirement : Misc. local legislative body policies; charter requirements – Establishment of policies, restrictions on use, prohibitions for cell phones, government credit cards and purchasing cards, and government-owned vehicles and equipment (e.g., computers, internet and phone usage, etc.).

► *Also, see Step 7-4 regarding ORC requirements for county credit and purchasing cards.*

Summary of Requirements: Most governmental entities have the authority to provide cell phones, credit cards and purchasing cards for use by authorized employees and to provide government-owned vehicles and equipment (e.g., computers, internet and phone usage, etc.) for use by authorized users. For example, the ORC authorized counties, townships, park districts and agricultural societies to use credit cards.² The use of these items should be specified in a policy the government's legislative body adopts. These policies should, at a minimum, identify authorized users, guidelines for allowable use/purchases, method of reimbursement (if personal use is allowed), specific unallowable uses, reporting, monitoring of use by appropriate levels of management, and other guidelines the legislative body deems appropriate.³

Note: Effective Jan. 8, 2004, ORC 3375.392(A) permits a library's trustees to authorize its employees to use credit cards. This statute does not mandate controls over these cards. Nevertheless, auditors should consider and test credit card controls considering the materiality of credit card purchases.

Sample Questions and Procedures

Steps 1 – 5 should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --5. We can apply steps 6 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient. Step 7 normally requires inquiry.

1. Obtain copies of existing policies for cell phone, government credit cards and purchasing cards, and government-owned vehicles and equipment.
2. Who is responsible for monitoring the usage of these items?
3. If the policies were established by the legislative body, obtain a copy of the resolution or ordinance. Include a copy or abstract of the policy in the permanent file.
4. Review the established policies. Obtain and scan the list of authorized users.
5. Include copies of the applicable policies in the working papers (Permanent File).
6. Scan a few cell phone and credit card / purchasing card transactions to determine whether use was by an authorized user and within the guidelines established in the policy. In addition, include usage by the chief executive officer, chief financial officer, and elected officials in the review.
7. Inquire whether the entity's monitoring procedures identified any misuse. Determine whether the employee was notified of the improper use or was the matter otherwise appropriately corrected. (Note: The results from this inquiry may affect our assessment of the control environment.)
8. Any exceptions to the established policies should be communicated to management and to the

² If there is doubt about an entity's authorization to use credit cards, the government should consult with its legal counsel.

³ Auditors and governments may wish to refer to the Auditor of State's *Best Practices* for discussions about and examples of cell phone policies (Spring, 2004); and procurement card and vehicle policies (Winter, 2004). You can read *Best Practices* at www.auditor.state.oh.us under *Publications*.

legislative body. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the legislative body.		
Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

7-3 Compliance Requirement: Misc. local legislative body policies; charter requirements; Ohio Ethics Commission Advisory Opinion No. 91-010; Ohio Rev. Code Sections 102.03(D) and (E), 2921.42(A)(4), and 2921.43(A) – Establishment of policies, allowable expenses, unallowable expenses, limitations on amount of reimbursement for travel reimbursement by employees; use of “frequent flyer” mileage earned on official travel for personal use.

Summary of Requirements: Governmental entities can adopt policies to allow employees and/ or officials to be reimbursed for travel related to official business, training, etc. The government should have a policy governing travel reimbursements established by the government’s legislative body. These policies should, at a minimum, identify the types of travel authorized; guidelines for allowable and unallowable expenses; limitations on amount of reimbursement; types of supporting documentation required for reimbursement requests; reporting; monitoring of use by appropriate levels of management; and other guidelines the legislative body deems appropriate.⁴

Ohio Ethics Commission Advisory Opinion No. 91-010 prohibits a state official or employee (Ohio Rev. Code Section 102.03(D) and (E)) and a state officer or employee (Ohio Rev. Code Sections 2921.42(A)(4) and 2921.43(A)) from accepting, soliciting, or using the authority or influence of her position to secure, for personal travel, a discounted or free “frequent flyer” airline ticket or other benefit from an airline if she has obtained the ticket or other benefit from the purchase of airline tickets, for use in official travel, by the department, division, agency, institution, or other entity with which she serves, or by which she is employed or connected.

Sample Questions and Procedures

Steps 1 – 3 should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --3. We can apply steps 4 – 5 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient.

1. Do you adhere to the Ethics Commission Advisory Opinion or do you have a formal policy governing the accumulation and use of “frequent flyer” miles earned on official travel by officials, officers or employees of your government? (For entities other than the state government and departments: in the absence of such a policy, we should recommend the government establish a policy that (1) prohibits the accumulation of “frequent flyer” miles by officials, officers or employees of the government earned on official travel which is paid for or reimbursed by the government; or (2) requires the officials, officers or employees of the government to use such miles earned for future official travel for that employee or another employee of the government, or to forfeit such miles. State government and departments should follow Ohio Ethics Commission Advisory Opinion No. 91-010.)
2. Obtain copies of existing policies for travel reimbursement. Who established these rules and regulations? Who is responsible for approving and monitoring reimbursement requests?
3. If the policies were established by the legislative body, obtain a copy of the resolution or ordinance. Review the established policies. Include copies of the applicable policies in the working papers (Permanent File).

⁴ Auditors and governments may wish to refer to the Auditor of State’s *Best Practices* for discussions about and examples of travel policies (Spring, 2004). You can read *Best Practices* at www.auditor.state.oh.us under *Publications*.

<p>4. Scan a few reimbursement requests, noting any unusual reimbursement requests. Consider focusing on key elected and appointed officials for this scanning. Determine the adequacy of supporting documentation and whether the travel is for a valid governmental purpose and was properly authorized.</p> <p>5. Any exceptions to the established policies should be communicated to management and to the legislative body. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the legislative body.</p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

County requirements
Revised per SB 82,
Effective Feb. 12, 2004

7-4 Compliance Requirement: SB 82 amended 301.27 for county credit cards and created 301.29 for county procurement cards (“p-cards.”) These statutes require counties to establish policies and controls governing the use of county credit cards and p-cards.⁵

Summary of Requirements:

301.27 (credit cards) requirements include the following:

Note: RC 113.40(A)(1) defines credit cards as *financial transaction devices*, which RC 301.27 defines as including credit cards, charge cards, debit cards, or prepaid or stored value cards the commissioners do **not** deem to be procurement cards.

1. County employees, including commissioners and appointing authorities (i.e. other elected officials), can charge *only the following* work-related expenses to credit cards:

- Food
- Transportation
- Gas & oil (only for vehicles the county owns or leases)
- Telephone
- Lodging
- Internet service providers
- Expenses for children temporarily in the care of a public children services agency

2. Appointing authorities must receive the commissioners’ approval to have credit cards.

3. The county must charge credit card expenses to appropriations established for the costs described in (1.) above. That is, the county cannot appropriate money for “credit card expenses.”

4. Unless the commissioners resolve otherwise:

- Every card holder must submit a monthly estimate of credit card charges by appropriation code. (Note: commissioners may authorize periods exceeding one month for submitting estimates.)
- The commissioners may amend the estimates, and then must “pre-certify” them, by appropriation line item total, to the auditor, who then must certify that amounts are available and appropriated under 5705.41(D) to pay these costs.

The resolution can exempt all credit cards from requirement 4, or can exempt specified cards.

5. Regardless of whether the county estimates and “pre-certifies” expenses, credit card expenses cannot exceed appropriations.

6. Commissioners can approve payments exceeding authorized card policy limits after the fact.

7. If commissioners do not waive overexpenditure, the cardholder or office holder and surety are liable.

8. Institutions issuing cards can impose finance or late charges, but only if the commissioners authorize these charges.

301.29 p-card requirements include the following:

Note: ORC 301.29 defines procurement cards as any *financial transaction device* as defined in RC 301.28 including credit cards,⁶ charge cards, debit cards, or prepaid or stored value cards the commissioners deem to be procurement cards. P-card requirements are similar to credit card

⁵ Auditors and governments may wish to refer to the Auditor of State’s Winter, 2004 *Best Practices* for discussions about and examples of procurement cards. You can read *Best Practices* at www.auditor.state.oh.us under *Publications*.

⁶ Credit cards the commissioners deem to be “credit cards” follow the credit card provisions of RC 301.27. Credit cards the commissioners deem to be “p-cards” follow the procurement card provisions of RC 301.29.

requirements above, **except:**

1. The Commissioners must competitively bid with companies offering the card services.
2. Commissioners must approve, by resolution involving advice of the county auditor:
 - The expenditure classes (i.e. object codes) for which employees can use these cards. (P-cards are not limited to the expense types listed for credit cards in step 1 above.)
 - Limitations on the number of transactions chargeable each day, month or other period.
 - Procedures for revoking the card.
3. The county auditor shall **consult with the Auditor of State** in developing controls to implement p-cards. Note: The AOS reviewed and commented on a draft p-card policy the County Auditors Association of Ohio (CAAO) prepared. If counties adopt policies consistent with the CAAO policy, we can accept it without additional consultation. Note that our comments to CAAO included recommending that each county consult with its prosecutor to assure the policy includes any county-specific modifications to conform with applicable laws.

Sample Questions and Procedures

The steps below apply to both credit and p-cards, unless otherwise stated.

Steps 1 – 7 should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --7. We can apply steps 8 – 10 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient.

1. Obtain and review copies of existing policies for county credit cards and purchasing cards. Maintain in the permanent file.
2. If there is a new or modified p-card policy since the prior audit, compare it with the CCAO sample policy. (The policies need not be identical, but auditors should check for omissions of important elements the CCAO example includes.)
3. If there is a new or modified policy, determine if the prosecutor reviewed the policy and if the county included her or his advice in the policy.
4. If the county newly adopted p-card usage, read documentation supporting the county accepted the best bid from companies offering these services (Visa, etc.)
5. If the county established or amended the policies during the audit period, determine if the commissioners approved the changes via resolution where required as described in the requirements above.
6. Determine who is responsible for monitoring the usage of these items. Document how they review card users and charges.
7. Obtain and scan the list of authorized users. Determine how the county assures only authorized personnel use the cards.
8. Scan a few credit or p-card transactions and determine whether use was by an authorized user and within the guidelines established in the policy. Include usage by the chief executive officer, chief financial officer, and elected officials in the review.
9. If we note unauthorized use, did the entity’s monitoring procedures identify the misuse? Was the employee notified of the improper use or was the matter otherwise appropriately corrected?
10. Any exceptions to the established policies should be communicated to management and to the commissioners. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the commissioners. Based on your assessment of the severity of deficiencies, assess the effect on our control risk assessment and opinion.

<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
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Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Part 2: Accounting and Reporting

Section A: General

7-5 Compliance Requirement: Ohio Rev. Code Section 117.38 - Filing financial reports (other than state agencies).⁷

Summary of Requirement: Cash-basis entities must file annual reports with the Auditor of State within 60 days of the fiscal year end. GAAP-basis entities must file annual reports within 150 days.⁸ The Auditor of State may prescribe by rule or guidelines the forms for these reports. However, if the Auditor of State has not prescribed a reporting form, the public office shall submit its report on the form used by the public office. Any public office not filing the report by the required date shall pay a penalty of twenty-five dollars for each day the report remains unfiled, not to exceed seven hundred fifty dollars. The AOS may waive these penalties, upon the filing of the past due financial report.

The report shall contain the amount of: (A) receipts, and amounts due from each source; (B) expenditures for each purpose; (C) income of any public service industry that the entity owns or operates, as well as the costs of ownership or operation; and (D) **public debt** of each taxing district, the purpose of the debt, and how the debt will be repaid.

Also, the public office must publish notice in a local newspaper stating the financial report is available for public inspection at the office of the chief fiscal officer.

Sample Questions and Procedures

1. Trace selected totals from the annual report to the underlying accounting system. If we use the annual report as a trial balance, we will satisfy this requirement by completing the mandatory Trial Balance steps from the financial audit program. If the report is significantly deficient, we should cite ORC 117.38 for filing an incomplete or misleading report.
2. Search LGS’s annual report file to determine whether the government filed an annual report with our office.

You can limit the following step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

3. Please show me a proof of publication for the annual notice.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

⁷ Failing to file an annual report could be a symptom of an inadequate accounting system, inadequate training of personnel in understanding the accounting and reporting process, unposted or unreconciled records or other significant issues affecting the control environment, or which may even pose fraud risks.

⁸ The ORC does not prescribe a deadline for GAAP-mandated governments that file on another accounting basis (OCBOA or AOS basis). However, they still must file annually.

7-6 Compliance Requirement: Ohio Rev. Code Section 9.38 - Deposits of public money.

Summary of Requirement: Public money must be deposited with the treasurer of the public office *or* to a designated depository on the business day following the day of receipt. Public money collected for other public offices must be deposited by the first business day following the date of receipt.

For example, a government employee, other than the fiscal officer collecting funds and issuing a receipt, must deposit the funds with the government’s fiscal officer on the business day following the day of receipt. As an alternative to depositing the funds with the government’s fiscal officer, the employee instead may deposit funds with the government’s designated depository on the business day following the day of receipt.

If the amount of daily receipts does not exceed \$1,000 **and** the receipts can be safeguarded, public offices may adopt a policy permitting their officials who receive this money to hold it past the next business day, but the deposit must be made no later than 3 business days after receiving it. If the public office is governed by a legislative authority (counties, municipalities, townships, and school districts), only the legislative authority may adopt the policy. The policy must include provisions and procedures to safeguard the money during the intervening period. If the amount exceeds \$1,000 or a lesser amount cannot be safeguarded, the public official must then deposit the money on the first business day following the date of receipt.

Note: This section does not require the **fiscal officer** to deposit receipts with the designated depository on the business day following the day of receipt, or any other specified time. However, if the fiscal officer is holding significant amounts of cash and checks for an unreasonable period, you should make an internal control recommendation.

Auditors should be aware of this requirement, especially when testing governments with multiple cash collection points. Auditors should consider whether controls over cash collection points are adequate, including whether cash is timely deposited.

Also: Prisoners placing personal phone calls from the phones located in the county and city jails must place collect phone calls. To enable prisoners to place collect calls the County Sheriff and/or the City Police Chief may enter into agreements/contracts with long distance carriers. Often times to attract business, long distance carriers offer incentives such as refunds and/or rebates based on usage. Jail officials and employees must deposit rebates and refunds in accordance with 9.38.

Sample Questions and Procedures

Note: To enhance efficiencies, we should integrate the tests below with the financial audit tests. We should only cite noncompliance if we determine significant amounts of cash are not deposited within the required time frames.

1. Systems documentation should include collection points receiving significant amounts of cash.
2. When testing cash collections, document the date collected vs. the date deposited to the CFO or the date the “collector” deposited to a designated depository.
3. Read any new contract/agreement between the county sheriff/police chief and his/her long distance carrier. If incentives are granted, review the accounting treatment of the incentives. Determine if phone contract monetary refunds and or rebates were paid into the treasury in accordance with ORC 9.38. (We can limit step 3 to every other audit, unless we have reason to believe there may be issues with this.)

Government Personnel Interviewed	Documents Examined or Observations	W/P
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and Dates:	Made to Corroborate Inquiry:	Ref.
Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

7-7 Compliance Requirement: Ohio Rev. Code Section 121.22 - Meeting of public bodies to be open, exceptions, and notice.

Summary of Requirement: All meetings of any public body (including community schools) are to be open to the public at all times. A member of a public body must be present in person at a meeting open to the public to be considered present or to vote and for determining whether a quorum is present. The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions. [RC 121.22(C)]

Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of any emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested immediate notification. [RC 121.22(F)]

The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters [RC 121.22(G)]:

- (1) The appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or officials, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official licensee, or regulated individual requests a public hearing;
- (2) The purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal private interest is adverse to the general public interest.
- (3) Conducting conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action.
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
- (5) Matters required to be kept confidential by federal laws or rules or state statutes.
- (6) Specialized details of security arrangements and emergency response protocols where disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office.

A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized above. [RC 121.22(H)]

Sample Questions and Procedures

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

1. How does your entity notify the general public and news media of when and where meetings are to be held?
2. Determine whether the minutes of public meetings are promptly recorded and available for public inspection.
3. Review the minutes and determine if executive sessions are only held at regular or special meetings.
4. Document that executive sessions are only held for the purposes outlined above.
5. Determine whether all formal governing board actions are adopted only in open meetings.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

7-8 Compliance Requirement: Ohio Rev. Code Section 149.43 - Availability of public records

Summary of Requirement: RC 149.011(G) defines a “record” for the public records law, as any document, device, or item, regardless of physical form or characteristic, created, received by, or coming under the jurisdiction of any public office which document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office.

RC 149.43(A)(1) defines “public record” as any record that is kept by any public office, including, but not limited to, state, county, city, village, township, and school district units (including community schools), except medical records, records pertaining to adoption, probation, and parole proceedings, trial preparation records, confidential law enforcement investigatory records, records pertaining to abortions by minors (RC 2151.85), “security”⁹ or “infrastructure”¹⁰ records defined under Section 149.433, Ohio Revised Code, adoption records (RC 3107.42(A)), and records the release of which is prohibited by state or federal law.

All public records shall be promptly prepared and made available to any member of the general public at all reasonable times during regular business hours for inspection. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in such a manner that they can be made available for inspection. [RC 149.43(B)(1)]

Sample Questions and Procedures:

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

Ascertain if responsible personnel are aware of the above requirements and have implemented local policies and procedures regarding:

1. What records are made available?
2. Times when records may be reviewed.
3. Costs for copies to be made.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

⁹ “Security” record is defined as any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference or sabotage; or any records assembled, prepared or maintained by a public office or public body to prevent, mitigate or respond to “acts of terrorism.” [RC 149.433]

¹⁰ “Infrastructure” record is defined as any record that discloses the configuration of a public office’s critical systems (e.g., communication, computer, electrical, mechanical, ventilation, water, plumbing, etc.) of the building in which the public office is located. Simple floor plans are **not** included in this definition. [RC 149.433]

Section B: Courts

7-9 Compliance Requirement: Ohio Rev. Code Section 2335.25 - Cashbook of costs; clerk shall receive money payable at office; deposits.

Summary of Requirement: Each clerk of courts must maintain a journal or cashbook.

Sample Questions and Procedures (Questions should be posed to court personnel.)

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Are there any cash collections made by the court that are not entered into the journal or cashbook?
3. Describe procedures used to assure that the cashbook is complete and accurate (e.g., supervisory reviews, bank reconciliations). Note: We include this step here for emphasis, though it should be part of the financial audit tests and does not require additional testing for ORC purposes.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-10 Compliance Requirement: Ohio Rev. Code Section 2303.12 - Books to be kept by clerk of the court of common pleas.

Summary of Requirements: The clerk of the court of common pleas shall keep at least the following books: They shall be called the appearance docket, trial docket and printed duplicates of the trial docket for the use of the court and the officers thereof, journal, and execution docket.

Sample Questions and Procedures

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Are there any cash collections made by the court that are not entered into the journal or cashbook?
3. Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews, bank reconciliations). Note: We include this step here for emphasis, though it should be part of the financial audit tests and does not require additional testing for ORC purposes.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

<p>7-11 Compliance Requirement: Ohio Rev. Code Section 2101.12 - Records to be kept by the probate court.</p> <p>Summary of Requirement: Probate courts must maintain:</p> <ul style="list-style-type: none"> • (A) Administration docket • (B) guardian docket • (C) civil docket • (D) minutes journal; • (E) Record of wills.¹¹ • (G) execution dockets; 		
<p>Sample Questions and Procedures</p> <ol style="list-style-type: none"> 1. Are the aforementioned records maintained? (Note: We will normally know most of this from performing financially-related audit procedures.) 2. Are there any cash collections made by the court that are not entered into a cashbook? 		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

¹¹ The record of wills may serve as a source of obtaining missing trust documents to support trust fund obligations for some of our governments. Page 22

7-12 Compliance Requirement: Ohio Rev. Code Section 2335.34 - Lists of unclaimed costs. Ohio Rev. Code Section 2335.35 - Disposition of unclaimed fees and costs.

Summary of Requirements: On the first Monday of January, the clerk of each

- common pleas court clerk
- court of appeals clerk
- probate judge clerk
- sheriff

shall make two certified lists of unclaimed fees and costs outstanding for one year, and post the list in her/his office and the courthouse for 30 days. [RC 2335.34]

After the aforementioned 30 day period, the clerk or sheriff must pay the money to the county treasury. Each such officer shall indicate in her/his cashbook and docket the disposition of each unclaimed item. [RC 2335.35]

Sample Questions and Procedures

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

1. Describe procedures used to assure the list is maintained completely and accurately (these objectives will usually be addressed by the procedures used to maintain other required court records).
2. Please show me how you reconcile the unclaimed amounts to balances held in the bank.
3. Please show me your most recent listing of unclaimed funds.
4. How much was paid to the county for unclaimed funds during the year under audit.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

<p>7-13 Compliance Requirements: Ohio Rev. Code Section 2151.18 - Records; annual report; distribution (juvenile court).</p> <p>Summary of Requirement: Juvenile courts must maintain an appearance docket and a journal related to actions on cases before the court. (Note: This journal is not an accounting record.)</p> <p>An annual report must be prepared, showing the number and types of cases heard and their disposition. Copies of this report must be filed with the county commissioners. (Note: <u>Since this report is not a financial report, we do not require testing it.</u>)</p>		
<p>Sample Questions and Procedures</p> <ol style="list-style-type: none"> 1. Are the aforementioned records maintained? 2. Are there any cash collections made by the court that are not entered into the journal or cashbook? 		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

7-14 Compliance Requirement: Ohio Rev. Code Section 1907.20 - Records required of county courts.

Summary of Requirement County courts must maintain a general index and a docket.

On the first Monday of each January, the clerk must list all cases more than one year past for which money has been collected but unclaimed. The clerk must transmit notice of unclaimed funds to the party or to the party’s attorney. Money still unclaimed each April 1 must be paid to the county treasury. (Note: the funds remain the property of the potential claimant per RC 1907.20(D))

Sample Questions and Procedures

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

2. Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
3. How do you identify amounts unclaimed for more than one year?
4. Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
5. How much was paid to the county for unclaimed funds during April of the year under audit?

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-15 Compliance Requirement: 1901.31---.Ohio Rev. Code- Municipal court records.

Summary of Requirement: Municipal court clerks must maintain a general index and a docket and a listing of all cash receipts and disbursements. [RC 1901.31(E)].

On the first Monday of each January, the clerk must list all cases more than one year past for which money has been collected but unclaimed. The clerk must transmit notice of unclaimed funds to the party or to the party’s attorney. Money still unclaimed each April 1 must be paid to the municipal treasury (or county treasury, if it is a county-operated municipal court). [RC 1901.31(G)]

(Note: the funds remain the property of the potential claimant. That is, the government is holding this cash similar to an agent on behalf of the claimant.)

Sample Questions and Procedures

- Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

- Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
- How do you identify amounts unclaimed for more than one year?
- Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
- How much was paid to the county for unclaimed funds in April following the year under audit?

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-16 Compliance Requirement: Ohio Rev. Code Section 1905.21 - Docket; disposition of receipts. Ohio Rev. Code Section 733.40 - Disposition of fines and other moneys for mayor's court.

Summary of Requirements: The mayor of a municipal corporation and a mayor's court magistrate shall keep a docket. The mayor or mayor's court magistrate shall account for and dispose of all such fines, forfeitures, fees, and costs collected. [RC 1905.21]

All moneys collected shall be paid by the mayor into the municipality on the first Monday of each month. At the first regular meeting of the legislative authority each month, the mayor shall submit a full statement of all money received, from whom and for what purposes received, and when paid into the treasury. [RC 733.40]

Sample Questions and Procedures

The financial audit procedures would normally include these steps. It is sufficient to cross reference results from financial audit procedures satisfying these requirements to this step without the need for any other procedures.

1. Do you maintain a docket?
2. How do you assure that the docket is maintained completely and accurately?
3. Do you submit the required statement each month? Please show me _____ (pick a few monthly statements and have personnel walk you through them).
4. Describe procedures used to assure that the statement is complete and accurate.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-17 Compliance Requirements: The following is a list of courts and of the related statutory provisions (all references are to the Ohio Rev. Code) for the collection, custody, and disbursement of fees, fines, costs, and deposits.

Municipal Court

1901.14	Powers of judge; fees; rules; annual reports
1901.26	Costs for operation of the court and special projects
1901.261	Additional fees for computerization of court or office of clerk of court*
1901.262	Fee for dispute resolution
1901.31	Clerk of Court, powers and duties
2951.021	Supervision fees (Probation)
4511.193	Fee for indigent alcohol treatment fund

Mayor's Court

733.40	Disposition of fines and other moneys
1907.261	Fees for computerization of clerk of court office * (applies per 1905.02)
4511.193	Fee for indigent alcohol treatment fund
4507.021	Points system for license suspension Repealed effective 1/1/04

County Court

1907.20	Clerk of county court, powers and duties
1907.24	Schedule of fees and costs and disposition
1907.26	Disposition of fees and costs
1907.261	Additional fees for computerization of court or office of clerk of court*
1907.262	Fee for dispute resolution
4511.193	Fee for indigent alcohol treatment fund

Probate Court

325.28	Receipt for fees
2101.12	Records to be kept; indexes
2101.15	Probate judge to file itemized account of fees to county auditor
2101.16	Fees and costs generally
2101.162	Additional fees for computerization of court or office of clerk of court*
2101.163	Fee for dispute resolution
2101.17	Fees from county treasury
2101.20	Reduction of fees (if collected fees exceed court salary costs)
2333.26	Fees of probate court
3113.34	Additional fee for marriage license; fee for domestic violence shelter
3705.21	Registration of marriages, divorces, dissolutions, annulments
5310.05	Assurance fund rate
5310.06	Monthly payments of money to treasurer of state, investment of funds
5310.15	Miscellaneous Fees

Compliance Requirements (continued):***Juvenile Court***

325.28	Receipt for fees
2151.54	Fees and costs generally
2151.541	Additional fees for computerization of court or office of clerk of court*
2151.542	Fee for dispute resolution Repealed effective 7/6/01
4511.193	Fee for indigent alcohol treatment fund

Court of Common Pleas

325.28	Receipt for fees
2301.031	Fee for computerization of domestic relations division
2303.20	Fees and costs generally
2303.201	Fees for computerization of clerk of court office and disposition*
2303.202	Fee for dispute resolution Repealed effective 7/6/01
2303.22	Costs and fees taxed upon writs
2335.35	Disposition of unclaimed fees and costs
2335.37	Payment of certain costs to county treasury
2335.241	Interest on certificates of judgment; computerization of court/ clerk's office (note, RC 2335.241 is not subject to the computerization fee restrictions of Bulletin 2005-003 discussed on the following page.)
3109.14	Fees for birth and death records and disposition of divorce or dissolution filings; Children's trust fund
2951.021	Supervision Fees (Probation)
4505.14	Fees for lists of title information
4519.59	Fees for certificate of title
4519.63	Preparation and furnishment of title information; Fees
4519.69	Fee for processing physical inspection certificate
5310.05	Assurance fund rate
5310.06	Monthly payments of money to treasurer of state, investment of funds
5310.15	Miscellaneous Fees

Court of Appeals

2501.16	Clerk of Court, powers and duties; fees for special projects
2303.20	Fees & Costs Generally (applies via 2501.16 & 2303.03)

All Courts

2335.30	Posting table of fees
2743.70	Fine to fund reparations payments (collection and remittance to state)
2949.091	Execution of sentence (collection and remittance to state)
4511.19(G)(5)(a)	Fine for enforcement and education fund
4513.263	Occupant restraining devices
5503.04	Disposition of fines and moneys arising from bail forfeitures

Compliance Requirements (continued):

The clerks of various courts receive cash in payment of various court fees, costs, and fines, as well as contingent deposits pending the outcome of legal proceedings. Such monies normally may be deposited in banks or savings and loan associations pending distribution in accordance with statutory specifications or as directed by the court.

All moneys collected during a month and owed to the state shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of the state [Ohio Rev. Code Sections 1907.24(C), 2303.201(C), 2743.70 (A), 2949.091(A) (all courts) & (B), and 3109.14].

* Per Auditor of State Bulletin 2005-003, it is the AOS's opinion that a government cannot use these fees to compensate court employees who use a computer in their ordinary duties. Rather, the AOS believes the Ohio Legislature intended that such fees are to be used to procure and maintain computer systems or to computerize courts. This would include procuring services for installing, updating, and maintaining court computer systems (e.g., computer programmers or computer engineers). These services may be provided by employees or staff of the court and, in these circumstances, fees could be expended for employee or staff expenses as properly documented to demonstrate the percentage of time spent on such activities. However, employees and staff should not be compensated from computerization fees when using the court's computer systems as end-users.

Sample Questions and Procedures

Note: The ORC sections listed in this step are provided primarily for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should be part of the financial audit of the court.

1. Inquire as to how the court spends computerization fees. Determine whether the accounting system can segregate computerization fees received and spent; or how the court otherwise determines that these fees were only spent on permissible computerization activities per AOS Bulletin 2005-003.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-18 Compliance Requirement - Ohio Rev. Code Sections 2743.70 and 2949.091 - Additional costs in criminal cases in all courts to fund reparations payments; additional court costs for state general revenue fund.

Summary of Requirements: These sections generally require the court in which any person is convicted of or pleads guilty to any offense other than a traffic offense which is not a moving violation to impose and collect additional fines to be used for the state's reparations fund. The court may not waive the payment of this additional cost unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

Sample Questions and Procedures

Note: The ORC sections listed in this step are provided primarily for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should be part of the financial audit of the court.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-19 Compliance Requirement:

Ohio Rev. Code Section 3375.53 - Fines and penalties for violation of liquor control laws and state traffic laws paid to **law libraries** (various courts).

Ohio Rev. Code Section 3375.52 - Court of **common pleas** and **probate court** to pay fines and penalties to law library.

Ohio Rev. Code Section 3375.50 - Allowance to law libraries from fines and penalties of **municipal courts**.

Summary of Requirement: These sections provide for distributing certain fines and penalties to the board of trustees of the county law library association.

Sample Questions and Procedures

Note: The ORC sections listed in this step are provided for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should also be part of the *financial* audit of courts.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-20 Compliance Requirement: Ohio Rev. Code Sections 2113.64 and 2113.65 - Unclaimed estate money (**probate court**).

Summary of Requirement: These sections provide procedures regarding unclaimed estate money. The probate court may direct the county treasury or may order the will’s executor or administrator to invest the money for a period not to exceed two years. If the amount remains unclaimed after the designated period, it is paid into the county general fund.

Sample Questions and Procedures

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

- How do you identify amounts unclaimed?
- Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section C: Libraries

7-21 Compliance Requirement: Ohio Rev. Code Section 3375.36 - monthly statement; financial statement; depository.

Summary of Requirement: The clerk is required to report monthly to the board. The reports are to reflect:

- revenues and receipts
- the disbursements and their purposes, and
- the assets and liabilities of the board [however, we do not interpret this section to require GAAP accounting].

At the end of fiscal year, the clerk is to submit to the board a complete financial statement showing the receipts and expenditures in detail for the entire fiscal year.

All moneys received by the clerk for library purposes are to be immediately placed in the designated depository.

Sample Questions and Procedures

1. Please show me a copy of one of your monthly reports to the board. Show me how you assure it agrees to the accounting system. (For example, if the accounting system prints these reports online [such as UAN*], we should normally have high assurance of agreement without needing additional tests. Conversely, if the clerk must manually compile a monthly report from a manual accounting system, the risk of error would be greater.)
2. Please show me your most recent annual financial report. Show me how you assure it agrees to the accounting system. (For example, if the accounting system prints these reports online [such as UAN*], we should normally have high assurance of agreement without needing additional tests. Conversely, if the clerk must manually compile a monthly report from a manual accounting system, the risk of error would be greater.)

* If the library uses UAN, and the clerk uses UAN-generated reports to fulfill these requirements, there is no need to test these reports. Just document below that the clerk uses UAN reports to meet these requirements.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section D: Counties and County Hospitals

<p>7-22 Compliance Requirements: Ohio Rev. Code Section 319.04 - Mandates training and continuing education requirements for county auditors.</p>		
<p>Summary of Requirements: An elected county auditor needs to complete at least 16 hours of continuing education courses during the first year of each full term, and to complete at least eight more hours by the end of that term. The county auditor needs at least two hours of ethics and substance abuse training in the total 24 hours of required courses. The County Auditors Association of Ohio (the Association) must approve each course. If a county auditor teaches an approved course, the county auditor may receive credit for it. The Association shall keep track of the hours completed by each county auditor and, upon request will issue a statement of the number of hours of continuing education the county auditor has successfully completed. The Association will send this information to the Auditor of State’s office and to the Tax Commissioner each year. If a county auditor does not adhere to the requirements stated above, the Association shall issue a “notice of failure” to that county auditor. This notice is for informational purposes only and does not affect any individual’s ability to hold the office of county auditor. Also, each board of county commissioners shall approve reasonable amounts required by the county auditor to cover the costs incurred when meeting the above requirements.</p>		
<p>Sample Questions and Procedures</p> <ol style="list-style-type: none"> 1. Please show me the County Auditor Association’s statement documenting your attendance. 2. Determine if the Auditor obtained sufficient CPE. 		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

7-23 Compliance Requirement: Ohio Rev. Code Section 319.11- County financial reports.

Summary of Requirements: Ohio Rev. Code Section 319.11 addresses county financial reports. This section states in part that the county auditor upon completing the annual financial report shall publish notice that the report has been completed and is available for public inspection at the office of the county auditor. This notice shall be published once in two newspapers of general circulation published in the county; except that if only one newspaper is published in the county, then publication in only one newspaper is required. If there are no newspapers in the county, then publication should be done in the largest circulating newspaper of an adjoining county.

Sample Questions and Procedures

You can limit this step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

Please show me proof of publication notice stating the report is available for public inspection.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section E: Townships

7-24 Compliance Requirement: Ohio Rev. Code Section 517.15 – Creates the permanent cemetery endowment fund.¹²

Summary of Requirements: Previously, this fund accounted for gifts and bequests a township invested, with the interest used to maintain the donor-designated burial lots.

Since HB 513 passed in 2002, townships may receipt money from various sources into this fund, which becomes part of the nonexpendable fund principle.¹³

The sources of money a township can add to the nonexpendable endowment include gifts, charges added to the price regularly charged for burial lots, contributions and individual gifts and agreements with the purchase of a burial lot.

Townships can expend *endowment earnings* to maintain, improve and beautify specific burial lots and for general purpose maintenance, improvement and beautification of the cemeteries.

Sample Questions and Procedures

1. What are the sources of the moneys receipted into the fund? Please show me support for these sources. (Scanning the support should normally be sufficient.)
2. For what purposes were the moneys in this fund used? Please show me support for these expenditures. (Scanning the support should normally be sufficient.)
3. Compare disbursements to investment earnings. Disbursements in excess of unspent accumulated investment earnings violate RC 517.15, as the Bill Analysis in the footnote below describes.)

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

¹² ORC terminology does not affect fund classification for financial reporting. Financial statement preparers should classify this fund according to GASB Cod. 1300. This fund might be a permanent or private-purpose trust fund.

¹³ According to the Bill Analysis of Amended Substitute House Bill Number 513, 124th General Assembly, these financial sources become part of the endowment fund, along with any gifts, devises, or bequests for the maintenance, improvement, or beautification of the cemetery generally, or of a designated burial lot. (Sec. 517.15.)

Part 3: Payroll, Taxes

Section A: Federal, State, and Local Taxes

7-25 Compliance Requirements:

- Internal Revenue Code (IRC) Chapter 26 [26 U.S.C.] - Collection of Income Tax at Source on Wages; 26 U.S.C. §3401 through §3406:
 - §3401: Definitions;
 - §3402: Withholding of income tax from wages;
 - §3403: Employers liable for payment of the tax deducted and withheld;
 - §3404: Return of amount deducted and withheld shall be made by appropriate officer of the governmental employer;
 - §3405: Withholding on pensions and annuities;
 - §3406: Backup withholding
- 26 U.S.C. §3102(a): Deduction of [Medicare] tax from wages;
- 26 U.S.C. §132: Exclusion of certain fringe benefits from gross income;
- Internal Revenue Regulations (26 C.F.R.):
 - §1.61-21: Taxation of fringe benefits;
 - §1.6041-1: Reporting of income aggregating \$600 or more [i.e., 1099s-MISC] ¹⁴;
 - §1.6041-2: Reporting of *wage* income aggregating \$600 or more [i.e., W-2s];
 - §1.6041-3: Various exclusions;
 - §1.6041-6: Time and place for filing forms 1099 and 1096;
 - §1.6050E-1: Income tax refund reporting.
- Ohio Rev. Code §5747.06 - Collection of Ohio income tax at source.
- Various local ordinances require withholding on wages earned in the particular municipality. These should be consulted for the requirements.

Summary of Requirement:

These sections of the various tax codes require the employing government to withhold federal, state, and local income and employment-related taxes (such as Medicare). They also require the government to report those tax matters to the appropriate tax authorities and to the recipients. Certain of these sections require consideration of whether employer-provided “fringe” benefits, such as use of government automobiles for private purposes, constitute taxable income to be reported and withheld upon.

Note: See the *Ohio Compliance Supplement Introduction* regarding IRS Referrals.

¹⁴ All payments to attorneys of \$600 or more that are not otherwise reported (e.g., on form W-2 for attorneys who are employees) must be reported on form 1099-MISC.

Sample Questions and Procedures

Note: It is normally efficient to integrate step 1 with payroll testing.

1. When testing payroll, determine if the government withholds state, federal and local income taxes.
2. Do you provide any of your employees with potentially taxable fringe benefits, such as the use of a government owned vehicle, or an auto or uniform allowance? If so, how do you compute the benefit amounts reflected in the affected employees' Forms W-2? Please show me 1 or 2 employees' W-2s that include these amounts.
3. Did your government pay any independent contractor (other than a corporation) \$600 or more during this year? If so, please show me a few Forms 1099 that were issued.
4. If the government assesses an income tax, scan a few Forms 1099G for municipal income tax refunds exceeding \$10 each.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section B: Employees' Retirement Systems and Fringe Benefits

7-26 Compliance Requirement:

Revised per HB 364 Effective 4/8/03
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- Ohio Rev. Code Sections 145.01, 145.02, 145.03, 145.47, and 145.48 - **Public Employees Retirement System (PERS)**, definitions, exclusions, exemptions and rates of contributions.
- Ohio Rev. Code Sections 742.01, 742.02, 742.31, to 742.34 - **Police and Fire Disability and Pension Fund**, definitions, rates of contributions and reporting requirements.
- Ohio Rev. Code Sections 3307.01, 3307.012, 3307.381, 3307.51, 3307.53, and 3307.56 - **State Teachers Retirement System (STRS)**, definitions, employment of retired members, contribution rates. (These sections also apply to community school employees.)
- Ohio Rev. Code Sections 3309.23, 3309.341, 3309.47, 3309.49 and 3309.51¹⁵ - Membership in **Public School Employees Retirement System (SERS)**, employment of retired members, contribution rate, payment of expense fund. (These sections also apply to community school employees.)

Summary of Requirement: These sections require governments to enroll most of their employees in the appropriate retirement system, and to withhold from the employees' wages, or pay on behalf of the employees, a certain percentage of earned wages as defined and to pay over to the appropriate system the amounts withheld, matched with an appropriate percentage of employer matching contributions.

Sample Questions and Procedures

1. When testing payroll transactions, determine if the government withheld pension amounts at the proper rate.
2. Scan payroll ledgers. List a few employees for which no pension is withheld. Ask the CFO to provide documentation or explanation as to why there is no withholdings for these employees.
3. Examine selected payments of the w/h from the government to the pension system. (This is an important step. Governments in financial distress occasionally resort to not paying withholdings when due. While unusual, this circumstance often **would be material noncompliance.**)

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

¹⁵ Effective 4/8/03, the Secretary of SERS will certify to ODE amounts ODE is to withhold from community school foundation payments for pension costs.

<p>Amended per HB 185, effective 8/31/04</p>

7 -27 Compliance Requirements: Ohio Rev. Code Section 505.60 and 505.601 - Reimbursement of insurance premiums – **Townships.** ¹⁶

Summary of Requirements: Townships may reimburse a township officer or employee for out-of-pocket premiums for insurance policies, including long-term care insurance. The reimbursement is permitted for a township officer or employee who is denied coverage under a township health care plan established pursuant to Ohio Rev. Code Section 505.60, **or** who elects not to participate in the township's plan. The reimbursement cannot exceed an amount equal to the average premium paid by the township under the policies it procures [Ohio Rev. Code Section 505.60(C)].

A township that does not procure health care benefits for its officers and employees is permitted to reimburse any township officer or employee for each out-of-pocket premium that the officer or employee incurs. However, pursuant to Ohio Rev. Code Section 505.601, the township must meet the following three conditions:

1. The board of township trustees adopts a resolution stating that the township has chosen not to procure a health care plan and has chosen instead to reimburse its officers and employees for each out-of-pocket premium,
2. The resolution provides for a uniform maximum monthly or yearly payment amount for each officer and employee,
3. The resolution states the specific benefits, pursuant to Ohio Rev. Code Section 505.60(A), that will be reimbursed.

¹⁶ Note: The Internal Revenue Code [26 USC § 105 (b)] provides an exclusion from gross income of employees for “. . . amounts . . . paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213(d)) of the taxpayer, his spouse, and his dependents . . .”. Section 213 (d)(1)(D) provides that the term “medical care” includes amounts paid for insurance. Therefore, reimbursing township employees for their medical insurance generally should not result in a taxable event to those employees, if the township is reasonably assured that the reimbursements are not in excess of employees' expenditures for medical insurance as defined.

<p>Sample Questions and Procedures</p> <ol style="list-style-type: none"> 1. Did the township reimburse any officer or employees for insurance benefit premiums during the period? 2. If so, please show me the resolution authorizing reimbursement. (We should maintain a copy in the permanent file so we needn't repeat this step each audit.) 3. Describe your procedures for ensuring reimbursements meet the requirements of [Section 505.60(C) or the reimbursement resolution]. 4. Please show me a few employees' reimbursement transactions. 		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

7 -28 Compliance Requirements: Ohio Rev. Code § 505.603 - “Cafeteria Plans” - Townships.¹⁷

Summary of Requirements: In addition to or in lieu of providing benefits to township officers and employees under section 505.60, 505.601, or 505.602 of the Revised Code, a board of township trustees may offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the "Internal Revenue Code." To offer benefits through a cafeteria plan, the township must adopt a policy authorizing an officer or employee to receive a cash payment in lieu of a benefit otherwise offered to township officers or employee. This cash payment may not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the officer or employee.

Ohio Rev. Code § 505.603 further requires that no cash payment in lieu of a benefit be made unless the officer or employee provides a signed statement with the following information:

- an affirmation that the individual is covered under another plan for that type of coverage
- the name of the employer (if any) that sponsors the coverage
- the name of the carrier that provides the coverage
- the policy or plan number for the coverage

¹⁷ Note: The Internal Revenue Code [26 USC § 105 (b)] excludes from gross income of employees “. . . amounts . . . paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213(d)) of the taxpayer, his spouse, and his dependents . . .” Section 213 (d)(1)(D) provides that the term “medical care” includes amounts paid for insurance. Therefore, reimbursing township employees for their *medical* insurance generally should not result in a taxable event to those employees, if the township is reasonably assured that the reimbursements are not in excess of employees’ expenditures for medical insurance as defined. If the township is not reasonably assured of that, then the cash paid should be reflected on the employee’s or officer’s Form W-2 as an additional taxable benefit. Similarly, if the cash is used for life insurance or any other purpose, the employee’s W-2 should reflect an additional taxable benefit.

Sample Questions and Procedures

Note: Steps 1 – 4 only apply when a township adopts or amends a cafeteria plan. Otherwise, reviewing the permanent file should address these steps and we need not fully perform steps 1 – 3 every audit.

1. Do you offer your officers and employees benefits through a cafeteria plan?
2. Inquire if the township worked with their legal counsel and/or accountants to design and administer the plans properly. If so, secure any documentation legal counsel or the accountants have supplied to the township.
3. Did the IRS approve your plan? Please show me a copy of the approval letter.
4. Review the policy document for conformance with the requirements.
5. Describe your procedures for ensuring reimbursements met the requirements of Section 505.603.
6. Please show me [number] of signed statements with the attestations and the required information.
7. Calculate or review entity's calculations that cash in lieu of payments does not exceed 25% of the cost to the township for providing the benefit (that is no longer being received).
8. Determine if the employees' W-2 forms reflect additional income for the benefit if applicable.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section C. Vacation and Sick Leave

7-29 Compliance Requirements: Vacation and sick leave

Vacation leave:

RC 325.19 and 3319.084 prescribe vacation benefits for **county** and **school non-teaching employees**, respectively. See tables below. The governing authorities of other local governments set vacation policy by statute, ordinance or charter. However, collective bargaining agreements supersede local states, ordinances or charters.

RC 325.19 —County vacation leave

RC 325.19 Years of service	Vacation leave earned
<1	0
≥1 but <8	80 hrs. per year
≥8 but <15	120
≥15 but <25	160
≥25	200

Note: Employees of county departments of jobs and family services accrue vacation pursuant to RC 124.13. However, this Section prescribes the same vacation accruals as does RC 325.19, above.

RC 3319.084-- School nonteaching employee vacation leave

RC 3319.084 Years of service	Minimum vacation leave earned
<1	0
≥1 but < 10	2 weeks
≥10 but < 20	3 weeks
≥20	4 weeks

RC 9.44 generally requires an Ohio local government to include an employee’s prior service with the State or other Ohio local governments when computing vacation leave. However, there are exceptions to this general rule. While this would rarely, if ever, be significant, if this applies to an employee’s leave you are testing, see RC 9.44 regarding the exceptions.

Sick leave:

RC 124.38 prescribes 4.6 hours of sick leave for each 80 hours of completed service (120 hours / year), applicable to **county, municipal, civil service township service**, except to superintendent and management employees defined in RC 5126.20. RC 124.38 also applies to employees of any **state college or university**, and **certain board of education employees** (board of education employees for whom sick leave is not provided by Section 3319.141).

Ohio Rev. Code Section 3319.141- Sick leave for **school employees**: Earn 1¼ days per month (15 days / year), accumulating to a maximum of 120 days. However, a school board may adopt a policy permitting accumulations > 120 days.

Per RC 124.39, employees governed by RC 124.38 and employed for ≥ 10 years, are eligible for

payment of 25% of their unused sick leave balance, up to a maximum of 30 days, upon retirement.

Note: These sections provide for minimum vacation and sick leave. Governments generally may provide more than the minimum. These sections also prescribe procedures for paying the employees' accumulated leave balances upon separation from service.

Sample Questions and Procedures

For GAAP entities, it is usually efficient to include these procedures when testing the financial statement liability for compensated absences.

1. Obtain a copy of resolutions, ordinances or collective bargaining agreements setting vacation leave. Maintain an up to date copy in the permanent file.
2. What procedures do you follow for recording the accrual and use of sick leave and vacation? (If leave accrual is automated, using standing data, very limited recomputations of additions to the should suffice for testing credits to leave accrual.)
3. Please show me a few employees' calculations of leave balances credited and used, including appropriate leave forms. Determine whether the computations use the hours the ORC, local legislation or collective bargaining agreements authorize.
4. Did you have any employees leave service this year? Please show me, for a few of them, how you calculated and paid their accumulated leave balances. Determine whether the computations use the hours the ORC, local legislation or collective bargaining agreements authorize.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section D. Compensation Related Requirements

7-30 Compliance Requirements: Ohio Rev. Code:

Schools:

Sections 3311.19 and 3313.12 - School board compensation and mileage

Section 3313.24 - Compensation of School Treasurer¹⁸

Section 3319.01 - Appointment and duties of superintendent (including compensation)

Section 3319.02 - Appointment of other (school) administrators, evaluation; renewal; vacation leave

Section 3319.08 - Teacher employment and reemployment contract

Section 3319.10 - Employment and status of substitute teachers

Section 3319.081 - Contracts for non-teaching employees

Courts:

Sections 141.04 and 141.05 - Compensation of judges (court of common pleas, including probate court judges)

Section 2151.13 - Employees; compensation (courts).

Section 1907.16 and 1907.17 - Compensation of (county court) judges

Sections 2303.03, 2501.16, and 2501.17 - Officers and employees (courts of appeals)

Section 1907.20 - Clerks (court of common pleas)

Section 1901.11 - Compensation of judges (Municipal Court)

Sections 1901.31 and 1901.32 - Clerks; deputy clerks; bailiffs (Municipal court)

Section 141.04 (A) (3) - Compensation of judges (appellate court judges)

Libraries:

Section 3375.32 - Meeting of boards of library trustees; organization; election of clerk; bond.

Section 3375.36 - Treasurer of library (deputy clerk)

Section 3375.40 - Powers of boards of library trustees (compensation of employees)

Municipalities

Sections 731.07, 731.08, and 731.13 and 1973 Op. Atty Gen. No. 73-063 and 1983 Op. Atty Gen. No. 83-036 - Compensation (municipal officials)

Counties:

Chapter 325 - Compensation of county officials: auditor, 325.03; treasurer, 325.04; sheriff, 325.06; common pleas clerk, 328.08; recorder, 326.09; commissioners, 325.10; prosecutor, 325.11; engineer, 325.14; coroner, 325.15; vacation and holiday pay, 325.19; Op. Atty Gen No. 99-033 – in-term increase in compensation based on change in population according to decennial census (see Auditor of State Bulletin 99-015).

Townships:

Sections 505.24 (trustees), 505.60 (insurance - also see compliance requirement 7-26), 507.09 (clerk) - compensation for township officials, and 505.71 – compensation for joint ambulance district trustees. Also, 1999 Op. Atty Gen. No 99-015 – Definition of “budget” for purposes of compensation (see Auditor of State Bulletin 99-008).

County Hospitals:

Section 339.03 - Board of county hospital trustees; powers and duties

Section 339.06 - Compensation - county hospital administrator and employees

Municipal Hospitals:

Section 749.33 - Employment and compensation of superintendents, physicians, and employees (municipal hospitals)

¹⁸ ODE has indicated that, under Ohio law, treasurers must account for/administer all school district. In addition, Ohio law states that a treasurer’s salary must be fixed and payable from the General Fund. Therefore, in the absence of an ODE-approved indirect cost allocation plan, it is not permissible to charge

various State and/or Federal programs for supplemental compensation related to the Treasurer's *statutory* duties associated with these programs. Any such charges are unallowable under Ohio law and OMB Circular A-87. These charges may also qualify as *supplanting* under Federal guidelines if supplement not supplant provisions accompany the particular Federal award(s) being charged. However, if the treasurer can prove that he/she was assigned to non-treasurer duties and was compensated additionally for those, then we will not take exception to the compensation.

<p>Compliance Requirements (continued):</p> <p>Ohio State University [Section 3335.02(A)], Ohio University [Section 3337.01(A)], Miami University [Section 3339.01(A)], Bowling Green and Kent State Universities [Section 3341.02(E)], Central State University [Section 3343.05], Cleveland State University [Section 3344.01(A)], Medical College of Ohio at Toledo [Section 3350.01], Wright State University [Section 3352.01(A)], Youngstown State University [Section 3356.01], University of Akron [Section 3359.01(A)], University of Toledo [Section 3360.01(A)], University of Cincinnati [Section 3361.01(A)], Shawnee State University [Section 3362.01(A)], Community College Districts [Section 3354.06], Technical Colleges [Section 3357.06], State Community Colleges [Section 3358.03], University Branch Districts [none specified]. - Compensation of trustees.</p> <p>Summary of Requirement: All of these various sections set out authority for appointing and/or compensating officials and employees of the various entities. For additional information and salary schedules for elected officials, see the Elected Officials' Compensation Appendix to the OCS.</p>		
<p>Sample Questions and Procedures</p> <p>Tests of payroll disbursement should normally address these requirements. You should include a few payments to elected officials in these tests. For those officials, agree their pay rate to OCS Compensation Appendix amounts.</p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Part 4: Deposits and Investments

7-31 Compliance Requirement: Designating depositories --- Ohio Rev. Code:

Subdivisions Other Than Counties

Section 135.03 - Eligible depositories.

Sections 135.07 and 135.09 - Award of inactive and interim deposits, respectively.

Section 135.12 - Designation of depositories, requires a 5 year designation for subdivisions other than counties.

Counties

Section 135.32 - Eligible depositories.

Section 135.35 (D) - Eligible deposits or investments for county inactive moneys

Section 135.33 - Requires commissioners to designate depositories for a four-year period.

Courts

Section 131.11 - Security for funds deposited by certain public officials. Essentially requires courts to follow 135.18 or 135.181 collateral requirements.

Libraries

Section 3375.36 - Treasurer of library funds; depository:

- The board must designate a depository.
- The clerk must report monthly and annual financial activity to the board.

Summary of Requirements: These sections require local governments to **designate** depositories.

However, as ADAM 2002-005 notes, these ORC sections do **not** require a subdivision (including counties) to complete a “memorandum of agreement for deposit of public funds.” Therefore, we should not issue a noncompliance finding if a government has not completed a memorandum.¹⁹

Sample Questions and Procedures

Note: The following procedure only applies if the prior depository designation expired during the audit period.

Show me the minutes, resolution or agreement whereby the governing body designated depositories for the period under audit.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

¹⁹ The “Bureau of Inspection and Supervision of Public Offices” (the former title of the AOS Audit Division) prescribed a form for the Memorandum, Form No. 353, published by the Dayton Legal Blank Company. Ohio law does **not** require using this form or any other form.

<p>Revision per HB 168 Effective June 15, 2004</p>
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7-32 Compliance Requirements: Ohio Rev. Code Sections 135.14(B)(7), 135.142, 135.15, 135.22, 319.04, 321.46 and 733.27 - Education Requirements

Summary of Requirements: Subdivision treasurers must complete annual continuing education programs provided by the Treasurer of State. The Treasurer of State issues a certificate indicating that the treasurer has successfully completed the continuing education program. The continuing education requirement does not apply to a subdivision treasurer who annually provides a notice of exemption to the Auditor of State, certified by the Treasurer of State, that the treasurer is not subject to the continuing education requirements because the treasurer invests or deposits public funds in the following investments only:

- (1) Interim deposits pursuant to § 135.14 (B)(3);
- (2) STAR Ohio pursuant to § 135.14(B)(6);
- (3) No-load money market mutual funds pursuant to § 135.14 (B)(5)

Specific requirements apply to the officials listed below:

County Treasurers

Newly-elected treasurers must complete education programs (26 hours) given by the Auditor of State (13 hours) and the Treasurer of State (13 hours) between December 1 and the first Monday in September next following that person's election [RC 321.46].

After completing one year in office, a treasurer must take not fewer than ~~12~~ 24 hours of continuing education given by the Auditor of State and the Treasurer of State in each biennial cycle commencing the January 1 after the treasurer's first year in office. County treasurers may carry forward up to six hours received from the Auditor of State plus up to six hours received from the Treasurer of State in excess of 24 from the current to the next biennial cycle. [RC 321.46]

A treasurer who fails to complete the **initial** education programs required by §321.46 ~~without a valid health-related excuse or other special hardship~~ cannot invest and is *subject to removal from office*. Investment authority transfers immediately to the county investment advisory committee.

A treasurer who fails to complete the **continuing** education programs required by RC 321.46 ~~without a valid health-related excuse or other special hardship~~ is restricted to investing in STAR Ohio, no-load money market mutual funds pursuant to § 135.14 (B)(5), or in certificates of deposit, or savings or deposit accounts. A county treasurer who has failed to complete the continuing education programs and invests in other than these investments is subject to removal from office.

Village clerks

Must attend annual training programs for new village clerks *and* annual continuing education programs provided by the Auditor of State [RC 733.27]. (The Auditor of State interprets this section as requiring a newly-elected clerk to attend the new clerk's training offered by the Auditor of State between December 1 and the following February 15, and any other annual training offered by the Auditor of State. Continuing clerks must attend the annual update sessions only.)

All Local Governments

No investment shall be made in commercial paper or bankers acceptances unless the following have

<p>completed additional training for making those investments. The type and amount of additional training shall be approved by the Auditor of State:</p> <ul style="list-style-type: none"> • School treasurer [135.142(B)] • County investing treasurer²⁰ [135.35(A)(8)] • For other local governments: Treasurer or governing board [135.14(B)(7)] 		
<p>Sample Questions and Procedures</p> <p>Please show me your certificates of completion.</p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

²⁰ RC135.35(A)(8) applies to the *investing authority*. However, the treasurer is the investing authority, except in the rare circumstance county commissioners determine a treasurer is not complying with county policies, per RC 135.34.

Part 5: Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics

Revised by HB 185,
effective 8/31/04 and
SB 2, effective 6/9/04

7-33 Compliance Requirements and Summaries Thereof:

Ohio Rev. Code Section **102.03** - Restrictions and prohibitions.

These sections restrict the conduct of public officials and employees with respect to their official positions. Per RC 3314.03(A)(11)(e), RC 102 applies to community schools, except:

1. A community school governing board member can be a community school employee.
 2. A community school governing board member can have an interest in a contract unless the contract s with a for-profit entity to operate or manage the school.
- Present and former public officials or employees are prohibited during their public employment or for twelve months thereafter from representing any person on any matter in which the public official or employee personally exercised administrative discretion as a public official or employee. (Also known as *the revolving door statute*.) [102.03(A)(1)]
 - Division (A) of RC 102.03 shall not be construed to prohibit performing ministerial functions, including, but not limited to, the filing or amending tax returns, applications for permits and licenses, incorporation papers, and other similar documents. [102.03(A)(7)]
 - Public officials and employees are prohibited from using or authorizing the use of the authority or influence of office or employment to secure anything of value or to promise or to offer anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties. [102.03(D)]
 - Public officials and employees are prohibited from soliciting or accepting anything of value that is of such character as to manifest a substantial and improper influence upon that public official or employee with respect to that person's duties. [102.3E)]

RC sections governing interests in contracts by elected officials

- **RC 305.27** Prohibits county commissioners from having an interest in a county contract.
- **RC 511.13** Prohibits any member, officer or employee of a board of township trustees from having an interest in any contract the trustees approve.
- **RC 731.02** Prohibits members of a city legislative authority from having an interest in any contract with the city.
- **RC 731.12** Prohibits members of a village legislative authority from having an interest in any contract with the village.
- **RC 3313.33** Prohibits board of education members from having a pecuniary interest in a board contract, or from being employed by the board. However, there are exceptions, per RC 3313.33(C). You should refer to the statute for details of the exceptions.

Ohio Rev. Code Section **2921.42** - Having an unlawful interest in a public contract. This section prohibits such interests. (Note: While RC 3314.03(A)(11)(e) excludes community schools from complying with this, interest in contracts may be illegal for their board members per 102.03(D) or (E) as noted above.)

ORC 9.833(F) expressly permits a subdivision's officials or employees to serve on the governing board of the program administrator of a governmental self-insurance program, if his or her government participates in that program.

Ohio Rev. Code Section **2921.41**- Theft in office.

Public officials committing theft of public property (or services), or who use their offices in and of committing such acts, or permit their offices to be so used, are in violation of this Section. Section 2913.01(K) defines "theft."

Ohio Rev. Code Section **2921.421** - Assistants and employees of prosecutors, law directors, and solicitors.

This section provides procedures for employing persons associated in the private practice of law in these offices.

Ohio Rev. Code Section **3329.10** - Purchases of school textbooks and supplies:

Superintendents, principals, teachers, and supervisors are prohibited from acting as sales agents for textbook companies including companies offering electronic textbooks. These school officials are also prohibited from representing companies selling school apparatus or equipment. (Not applicable to community schools.)

Op. Atty Gen. No. 79-111 - Incompatibility of public offices: A public officer or employee may be pro

Note: You may find evidence of possible violations of Sections 102.03, 2921.41, 2921.42, and 2921.421 from various audit tests. These sections are criminal violations. Auditor of State staff should consult with the State Auditor's Legal Division whenever you suspect possible violations of these sections. Independent public accountants should consult with their own legal counsel.

Sample Questions and Procedures

1. How does your [Entity] identify possible interests on the part of officials and employees in matters coming before them for official action? For example, does your [Entity] require officials and employees to report the outside businesses and organizations they work for to you?
2. Do you know if anyone has inquired with the Ohio Ethics Commission as to whether any complaints or inquiries have been received concerning public officials of the [entity].
3. Do you know if any such transactions occurred during this year?
4. Do you know of any other illegal acts or frauds? (SAS 99 requires this step. If you already documented this in the FRAQ, you need not repeat this step here.)
5. If the school district purchase textbooks (including electronic textbooks) or school apparatus or equipment during this year, how did you assure yourselves that no one on the purchasing committee (superintendents, principals, teachers, and supervisors) acted as sales agents for those companies?

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Part 6: Prohibited Political Activity

7-34 Compliance Requirements and Summaries Thereof:

Ohio Rev. Code Section 9.03 - Political subdivision newsletters and other means of communication. No governing body of a political subdivision shall use public funds to publish, distribute, or communicate information that supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue. In addition, no public funds shall be used to compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described above. However, public funds may be used to publish information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue. Public funds may also be used to compensate an employee for attending a public meeting to present such information in such a manner even though the election, levy, or bond issue is discussed or debated at the meeting.

However, this Section specifically exempts Alcohol Drug Addiction and Mental Health (ADAMH) Boards from the prohibition against using public funds to support a levy or a bond issue. ADAMH Boards are specifically authorized by Ohio Rev. Code Sections 340.03(A)(5) and 340.033(A)(12) to use their public funds to obtain further financial support for their activities.

Ohio Rev. Code Section 124.57 - Political activity prohibited.

This section imposes restrictions upon the political activity of employees in the classified service of the State, counties, cities, city school districts, and civil service townships.

Ohio Rev. Code Section 124.59 - Payment for appointment or promotion prohibited.

Applicants for appointment or promotion in the classified service shall not pay for appointments or promotions

Ohio Rev. Code Section 124.61 - Abuse of political influence.

Public officials (or potential public officials) shall not use or promise to use, any official authority or influence in order to secure or aid any person in securing any office or employment in the classified service, or any promotion or increase of salary therein, as a reward for political influence or service.

Ohio Rev. Code Section 3315.07 (C) - Support of school ballot issues.

No board of education shall use public funds to support or oppose the passage of a school levy or bond issue or to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy or bond issue election. However, the law specifically allows a school board to allow its employees to attend public meetings during working hours to give informational presentations regarding the district's finances and activities, even if the purpose of the meeting is to debate the passage of the school levy or bond issue.

Sample Questions and Procedures

You can limit the following step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

- Inquire if the CFO is aware of these requirements and what controls the entity has established to prevent violations. Controls should include:
 - Policies or published notifications to employees regarding these requirements.
 - A requirement for a person knowledgeable of these requirements to review and approve payment requests.

- Inquire if the CFO is aware of any possible violations. If so, or if other evidence comes to your attention suggestion violations may have occurred, investigate the allegations as needed.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Part7: Public Officials' Bonding Requirements

7-35 Compliance Requirement:

General

Ohio Rev. Code Section 3.06 - Unless other statutes prescribe a bond for a particular officials (such as for the officials listed in OCS Bonding Appendix), RC 3.06(B) permits “. . . any department or instrumentality of the state or any county, township, municipal corporation, or other subdivision or board of education or department or instrumentality thereof, may procure a blanket bond from any duly authorized corporate surety covering officers, clerks and employees, other than. . . treasurers or tax collectors and any officer, clerk or employee required by law to execute or file an individual official bond to qualify for office or employment.

RC 3.06 also requires “Any such blanket bond shall be approved as to its form and sufficiency of the surety by the officer or governing body authorized to require it.”

Ohio Rev. Code Section 3.30 - Failure to give bond deemed refusal of office.

A number of specific bonding requirements have been prescribed by statute for various public officers and employees. See [Ohio Compliance Supplement Bonding Appendix](#) for the requirements applicable to county, city, township, school, and library officials.

Universities

Ohio State University [Section 3335.05], Ohio University [none specified], Miami University [none specified], Bowling Green and Kent State Universities [Section 3341.03], Central State University [Section 3343.08], Cleveland State University [Section 3344.02], Medical College of Ohio at Toledo [Section 3350.02], Wright State University [Section 3352.02], Youngstown State University [Section 3356.02], University of Akron [Section 3359.02], University of Toledo [Section 3360.02], University of Cincinnati [Section 3361.02], Shawnee State University [Section 3362.02], Community College Districts [none specified], Technical Colleges [none specified], State Community Colleges [Section 3358.06], University Branch Districts [Section 3355.051].

These compliance requirements are specific in the Ohio Rev. Code for all state universities except Ohio and Miami Universities, and are also not specified for certain other types of institutions. If a deficiency is noted for these institutions, it should be treated as a potential management comment rather than a compliance finding.

Community Schools

Ohio Rev. Code Section 3314.011 - Every community school established under this chapter shall have a designated fiscal officer. The Auditor of State may require by rule (see OAC 117-6-07 below) that the fiscal officer of any community school, before entering upon duties as the fiscal officer of the school, execute a bond in an amount and with surety to be approved by the governing authority of the school, payable to the state, conditioned for the faithful performance of all the official duties required of the fiscal officer. Any such bond shall be deposited with the governing authority of the school, and a copy thereof, certified by the governing authority, shall be filed with the county auditor.

Ohio Admin. Code § 117-6-07 requires a community school fiscal officer to execute a bond prior to entering upon the duties of the fiscal officer as provided for in Ohio Rev. Code Section 3314.011. The governing authority prescribes the bond amount and surety by resolution.

<p>Summary of Requirement: These sections provide requirements for bonding certain public officials and employees.</p>		
<p>Sample Questions and Procedures [See the OCS Bonding Appendix for details of requirements].</p> <ol style="list-style-type: none"> 1. How do you determine who is required to be bonded? 1. Do you have blanket bonds on officials or employees? How do you determine whether employees are eligible for such blanket bonding? 2. If the amount of the bond is not specified by statute, inquire how the government determined whether amounts of the bonds are commensurate with the duties of their office, i.e., amount of funds for which the individual is responsible, limits of liability, etc. If the bond seems unreasonable, consider issuing a management comment. 3. Please show me a few representative bonds. 4. For colleges and universities, as indicated above, additionally: How do you assure yourself that the bonds have been approved by the board and by the Attorney General? 		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Part 9: Other Special Entity Requirements

Section A: County Requirements

7-36 Compliance Requirements: Ohio Rev. Code Sections 325.071, 325.12 and 325.13 - Furtherance of justice allowance to sheriffs and prosecuting attorneys.

Summary of Requirement: The Furtherance of Justice Funds, created in accordance with Ohio Rev. Code Sections 325.071, 325.12 and 325.13 exist in order to provide for the sheriff’s and the prosecuting attorney’s expenses relating to the performance of the officer’s official duties and in the furtherance of justice.

Although the officers possess considerable discretion in determining an expense in the performance of their duties, these expenditures must be for a proper public purpose. The sheriff and prosecutor must be allowed one-half of the officer’s official salary, with two exceptions according to Section 325.13. The first exception allows the county prosecutor to appeal to the common pleas court for up to \$10,000 if the amount available in the fund is not sufficient. The second exception allows moneys collected by a court for fines to be distributed to the fund by court order. The sheriff and the prosecutor must account for all of the expenditures that have been made from the Furtherance of Justice Fund and file the accounting with the county auditor by the first Monday in January. Any funds that remain at the end of the year including cash held by officers must be deposited to the county treasurer.

Sample Questions and Procedures

Auditors should refer to the **FOJ Appendix** of the Ohio Compliance Supplement. The appendix includes audit programs to be used when performing tests of these funds. The audit programs are to be used at least **once every three years** as discussed further in the appendix. For years in which use of the audit programs is not required, auditors should use the following sample questions and procedures:

1. Please show me any policies and procedures you have for administering this fund.
2. Did you file the required annual report of expenditures for this fund? Please show me a copy of it.
3. Please show me documentation that the expenditures from this fund were proper and in accordance with your policies and procedures. Auditors should scan expenditure documentation and determine whether appropriate documentation is being maintained (i.e. receipts, invoices, affidavits, etc.), and whether expenditures appear reasonable in nature (i.e. proper public purpose). If significant unusual items are noted, auditors should perform the disbursement testing procedures included in the audit programs in the **FOJ Appendix**.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):



7-37 Compliance Requirement: Ohio Rev. Code Section 325.07 - Sheriff's transportation of prisoners allowance.

Summary of Requirement: A monthly allowance is provided to the sheriff for expenses incurred in transporting or pursuing persons accused of crimes. The sheriff must file with the county commissioners an itemized monthly report of expenditures.

Sample Questions and Procedures

Auditors should refer to the **FOJ Appendix** of the Ohio Compliance Supplement. The appendix includes audit programs to be used when performing tests of this fund. The audit programs are to be used at least **once every three years** as discussed further in the appendix. For years in which use of the audit programs is not required, auditors should use the following sample questions and procedures:

1. Did you draw the advancement for pursuit and transportation of prisoners?
2. Please show me any policies and procedures you have for administering this fund.
3. Please show me a copy of the expenditure reports you filed for this fund. (The auditor should inspect this document for any apparent improprieties).
4. Please show me documentation that the expenditures from this fund were proper and in accordance with your policies and procedures. Auditors should scan expenditure documentation and determine whether appropriate documentation is being maintained (i.e. receipts, travel reports, etc.), and whether expenditures appear reasonable in nature (i.e. proper public purpose). If significant unusual items are noted, auditors should perform the disbursement testing procedures included in the audit programs in the **FOJ Appendix**.

Government Personnel Interviewed and Dates:

Documents Examined or Observations Made to Corroborate Inquiry:

W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

7-38 Compliance Requirement and Summary: Ohio Rev. Code Section 3119.27 & 3125.10 -

A court that issues or modifies a court support order, or an administrative agency that issues or modifies an administrative child support order, shall impose on the obligor under the support order a processing charge that is the greater of two per cent of the support payment to be collected under a support order or one dollar per month. No court or agency may call the charge a poundage fee. [RC 3119.27]

Each county shall have a child support enforcement agency. A government entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or a private or government entity designated under RC 307.981 on or after that date may serve as a county's child support enforcement agency. [3125.10]

Sample Questions and Procedures

Note: While counties may report this activity in an agency fund, the amount of cash is normally significant and administering child support is an important county function. The financial audit program should include sufficient steps to reasonably assure the county is administering this important custodial function properly. Those financial audit objectives / tests must include:

- The child support agency sets up individual accounts for each case.
- The agency credits each account accurately for amounts received from each support case.
- The agency remits the amounts received to the proper child (after deducting the processing charge).
- The agency can reconcile cash on hand to balances held for each case.

Section B: Municipality Requirements

7-39 Compliance Requirement: Ohio Rev. Code 5727

Summary: Kilowatt-hour tax (kWh tax)

Municipal (Government) electric systems must assess a monthly kilowatt-hour (kWh) tax on end users. This tax is assessed at a variable rate that decreases as kilowatt-hour usage increases on the meters of end users (the last meter used to measure the kWh distributed). [RC 5727.81(A)]

RC 5727.82(A)(3) permits municipal electric communities to retain in their general fund the taxes collected from customers served inside their city or village limits (including taxes self-assessing customers pay, per 5727.81(C)(2)).

Note: This legislation did not change the constitutional rule that municipal electric systems can sell no more than one-third of electricity outside city or village limits.*

Municipal electric systems must file a monthly report and remit to the Tax Commissioner,²¹ by the 20th of the next month, taxes collected from any distribution customers served outside their city or village limits. Even if a municipal electric system has no sales outside of its community limits, a monthly report must be filed. [RC 5727.82(A)(1) & (A)(3)]

A self-assessing option exists for a large users consuming more than 45 million kWh annually. This self-assessing customer must annually register with the Department of Taxation and pay an annual fee to the State. A self-assessing customer located inside a municipal electric community's limits must remit any kWh tax directly to the community. [RC 5727.81(C)(2)]

Every electric system liable for the kWh tax must keep complete and accurate records of all electric distributions and other records as required by the Tax Commissioner. The records must be preserved for four years after the return for the taxes for which the records pertain is due or filed, whichever is later, and be available for inspection. [5727.92]

Note: AOS Bulletin 2001-011 explains these requirements in more detail. Auditors should familiarize themselves with this Bulletin before testing this requirement.

* Per Ohio Constitution, Article 18, Section 6: "Any municipality, owning or operating a public utility for the purpose of supplying the service or product thereof to the municipality or its inhabitants, may also sell and deliver to others any transportation service of such utility and the surplus product of any other utility in an amount not exceeding in either case fifty per cent of the total service or product supplied by such utility within the municipality, provided that such fifty per cent limitation shall not apply to the sale of water or sewage services." (Note: 50% of the total supplied within the municipality = 1/3 of the total supply.)

Sample Questions and Procedures

1. How do you segregate kWh taxes billed /collected for customers residing outside of the municipality's limits vs. those billed / collected inside the municipality's limits?

²¹ Governments must pay the tax to the Tax Commissioner, unless required to remit the taxes via electronic funds transfer to the Treasurer of State per Section 5727.83 of the Ohio Revised Code.

<ol style="list-style-type: none"> 2. Please show me a few of your monthly tax filing reports to the State Treasurer. Please show me how these agree with your ledgers. 3. Inquire with the municipality if there are any self-assessing customers to whom they supply electricity. If yes, inquire how the tax is transmitted to the general fund. (If the self assessor is located outside of the entity limits, the self assessor remits the kWh tax directly to the State.) 4. Inquire how the auditee determines that no more than one-third of its total sales are outside its limits. 5. Inquire about the municipality's procedures for complying with the record keeping requirements. Read a few electric distribution records to determine compliance. 6. Inquire how the government computes / segregates the tax billed to its residents and transfers the amount to its general fund. 		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Section C: School Requirements

7-40 Compliance Requirement and Summaries Thereof:

Licensing, school districts:

- The state board of education requires treasurers to have licenses. [Section 3301.074(A)].
- Ohio Rev. Code Section 3301.074 - Licensing of business managers; Ohio Admin. Code Section 3301-6-01(C) – requires school district business managers to be licensed.
- The state board of education requires school district business managers to be licensed. [Section 3301.074(A)].

Community school requirements:

- Ohio Rev. Code Section 3314.011 – Prior to assuming the duties of fiscal officer, the fiscal officer must be licensed under Ohio Rev. Code Section 3301.074 or must complete not less than sixteen hours of continuing education classes, courses or workshops in school accounting as approved by the sponsor of the community school.

Any fiscal officer not licensed under Ohio Rev. Code Section 3314.074 must complete an additional twenty-four hours of continuing education classes, courses or workshops in school accounting as approved by the sponsor of the school within one year after assuming the duties of fiscal officer. Any hours in excess of sixteen hours completed by the fiscal officer prior to assuming their duties will count toward the additional twenty-four hours of continuing education required under this section.

In each subsequent year, any fiscal officer not licensed under Ohio Rev. Code Section 3314.074 must complete eight hours of continuing education classes, courses or workshops in school accounting as approved by the sponsor of the school.

- All community school classroom teachers are to be licensed in accordance with Ohio Revised Code Sections 3319.22 to 3319.31, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to Ohio Revised Code Section 3319.301. A permit must be issued by the Ohio Dept. of Education to these “noncertificated” persons in order to teach.

Sample Questions and Procedures

1. What procedures do you have to insure yourselves that these employees’ licenses are current?
1. Please show me a few licenses.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable

conditions/material weaknesses, and management letter comments):

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<p>7-41 Compliance Requirements: Ohio Rev. Code Section 3313.291 - School District Petty Cash Accounts. (Not applicable to community schools.)</p> <p>Summary of Requirements: This section <u>allows</u> a Board of Education to adopt a resolution establishing a petty cash account from which a designated district official may make disbursements by check or debit card for purchases made within the district.</p> <p>The resolution establishing the petty cash account MUST:</p> <ol style="list-style-type: none"> 1. specify the maximum amount of money placed in the account; 2. designate the authorized district officials who may draw moneys from the account or require the school district treasurer to designate such officials; AND 3. establish procedures for replenishing the account. 		
<p>In determining how the government ensures compliance, consider the following:</p>	<p>What control procedures address the compliance requirement?</p>	<p>W/P Ref.</p>
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures - Compliance (Substantive) Tests</p>		
<p>Steps 1 & 2 should normally only apply when the district adopts new or modified policies. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 -- 2. We can limit step 3 to every other audit unless we have noted issues with petty cash in the prior audit or unless we are aware of or suspect there may be issues with petty cash. The working papers should document whether we tested this in the current or prior audit.</p> <ol style="list-style-type: none"> 1. Include a copy of the board approved, petty cash account policy and a list of authorized district officials <u>in the permanent file</u>. 2. If the district disburses significant amounts through the petty cash account, include this account when evaluating disbursement cycle controls. If amounts disbursed through petty cash are not significant, you can limit these procedures to every other audit. 3. Select a representative number of petty cash disbursements and determine whether appropriate documentation exists to support petty cash disbursements. 		
<p>Audit implications (adequacy of the system and controls, and the direct and material effects of</p>		

non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

**New Sections per HB 3
effective January 1, 2004, and HB
364, effective April 8, 2003**

7-42 Compliance Requirement: Ohio Rev. Code Sections 3314.03(A), 3314.082 Community School tax status

Summary of Requirements:

Ohio Rev. Code Section 3314.03(A)(1)(a): Community schools established prior to April 8, 2003 must be nonprofit corporations under ORC 1702.

Per 3314.03(A)(1)(b), community schools established after April 3, 2003 must incorporate as public benefit corporations.

Per RC **3314.082**, community schools cannot use foundation money to pay any taxes the school might owe on its own behalf, including, but not limited to, local, state, and federal income taxes, sales taxes, and personal and real property taxes. This intent does not apply to any moneys withheld from an employee of the community school that are payable by the school to a government entity as taxes on behalf of the employee.

NOTE: Per ORC 1702.01:

Nonprofit corporation means a domestic or foreign corporation that is formed otherwise than for the pecuniary gain or profit of, and whose net earnings or any part of them is not distributable to, its members, directors, officers, or other private persons, except that the payment of reasonable compensation for services rendered and the distribution of assets on dissolution as permitted by section 1702.49 of the Revised Code is not pecuniary gain or profit or distribution of net earnings. In a corporation all of whose members are nonprofit corporations, distribution to members does not deprive it of the status of a nonprofit corporation.

Public Benefit Corporation (PBC) means a corporation that is recognized as exempt from federal income taxation under section 501(c)(3)²² of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, or is organized for a public or charitable purpose and that upon dissolution must distribute its assets to a PBC, the United States, a state or any political subdivision of a state, or a person that is recognized as exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," as amended. PBC does not include a nonprofit corporation that is organized by one or more municipal corporations to further a public purpose that is not a charitable purpose.

²² The IRS recently informed us it is possible they would assess Federal income taxes on a community school's "income," if they have not received or applied for* exempt status. If you are auditing a nonexempt community school with positive equity or a positive "bottom line," they may require an accrued tax liability. AOS staff should consult with A&A if you encounter this.

* An entity can be exempt from Federal income taxes retroactive to the date of incorporation or the date of filing for the exemption. See pages 20 & 21 of the application at: www.irs.gov/pub/irs-pdf/f1023.pdf

(Per the paragraph above, Community schools established after April 8, 2003 must apply for 501(c)(3) status with the IRS. Those established before that date need not apply for that exemption, though it is to their advantage to do so. ²³)

Note: Conversion schools may be exempt from these requirements. If questions arise, regarding conversion schools, refer them to you're A&A representative.

Sample Questions and Procedures

1. Inspect the tax status approval by the Ohio Secretary of State.
2. For PBC (i.e. schools established after April 8, 2003), inspect the IRS determination letter granting them tax-exempt 501(c)(3) status. Retain a copy or summary of the exemption in the permanent file. (We also would not cite them or consider the need to accrue income taxes if the school can document that they have filed an application for exemption with the IRS.)
3. For PBC and nonprofits with IRS exemptions, scan the Form 990 filed with the IRS.
 - a. Determine whether the school filed a 990 with the IRS.
 - b. Scan the 990. Do not spend significant time, but if you note obvious misstatements, including misstatements in sections describing officials' compensation, or "Other Information,"etc. include a management comment that the school should file an amended return.
4. Scan payments to determine if the school paid any taxes (excluding employee withholdings). Prohibited taxes include, but are not limited to, local, state, and federal income taxes, sales taxes, and personal and real property taxes. If the taxes paid exceeded foundation receipts for the same fiscal year, we may require a finding for recovery.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

²³ The IRS could deem donations to a school lacking a Federal exemption to be nondeductible to the donor. If a school lacking a Federal exemption receives significant donations, include a comment in the management letter that these donations are possibly not deductible to the donor, and that the school must obtain an exemption to permit deductible donations.

Section D: Family and Children First Councils

7-43 Compliance Requirement: Ohio Rev. Code Section 121.37(B)(1)

Summary of Requirements: Each county must establish a Family and Children First Council. In addition to local public or private agencies or groups that fund, advocate or provide services to families and/or children having representatives on the board, each county council must include the following individuals:

- (a) At least three individuals whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.
- (b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.
- (c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.
- (d) The director of the county department of job and family services;
- (e) The executive director of the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code;
- (f) The superintendent of the county board of mental retardation and developmental disabilities;
- (g) The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service;
- (h) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each board of county commissioners of its determination at least biennially;
- (i) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;
- (j) A representative of the municipal corporation with the largest population in the county;
- (k) The president of the board of county commissioners, or an individual designated by the board;
- (l) A representative of the regional office of the department of youth services;
- (m) A representative of the county's head start agencies, as defined in section 3301.31 of the Revised Code;
- (n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986";
- (o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.

Sample Questions and Procedures

Obtain a list of the council members and the entity they represent, and compare the membership to the legislatively required membership.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
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Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

7-44 Compliance Requirement: Ohio Rev. Code Section 121.37(B)(4) - Family and Children First Councils - Administrative Agent

Summary of Requirements: Each Family and Children First Council must designate an administrative agent from among the following public entities: the board of alcohol, drug addiction, and mental health services, including a board of alcohol and drug addiction or a community mental health board if the county is served by separate boards; the board of county commissioners; any board of health of the county's city and general health districts; the county department of jobs & family services; the county agency responsible for the administration of children's services pursuant to section 5153.15 of the Revised Code; the county board of mental retardation and developmental disabilities; any of the county's boards of education or governing boards of educational service centers; or the county's juvenile court. Any of the foregoing public entities, other than the board of county commissioners, may decline to serve as the council's administrative agent.

The administrative agent serves as the council's appointing authority. In addition, the council must file an annual budget with the administrative agent and copies must be filed with the county auditor and the board of county commissioners.

If the County Council designates the Board of County Commissioners as its Administrative Agent, the County Commissioners can delegate, by resolution, any of its powers and duties as Administrative Agent, to an Executive Committee. (They may also repeal the resolution which provides for such delegation.) The Executive Committee is established by the Board and made up of members of the County Council²⁴. The Board of County Commissioners may require the Executive Committee to submit an annual budget. An Executive Director may be hired (with Board approval) to assist the County Council.

Miscellaneous

Various other Ohio Compliance Supplement requirements apply to family and children first councils, including: Compliance Supplement Requirements 7-6 through 7-8, regarding daily deposit of funds, public meetings, and public records, respectively; Compliance Supplement Requirement 7-25 regarding withholding federal, state and local taxes; Compliance Supplement Requirement 7-26 regarding employee retirement system withholdings; and Compliance Supplement Requirement 7-33 regarding Ohio Ethics Laws. In addition, vacation and sick leave for family and children first councils are governed by the policies and procedures of the council's administrative agent.

²⁴ Ohio Rev. Code §121.37 (B)(4)(b) provides that the Executive Committee so established must include certain members of the County Council. Where an Executive Committee has been established, auditors should refer to the statute for the detailed requirements.

Sample Questions and Procedures

1. Who is your administrative agent?
2. Please show me documentation that you have filed your annual budget with your administrative agent; and, that copies have been filed with the County Auditor and Board of County Commissioners.
3. Has an Executive Committee been established (only if Board of County Commissioners has been designated as the Administrative Agent)? If so, please show me a copy of the Board’s resolution and a list of Executive Committee members.
4. Use the guidance in the applicable sections to test compliance related to the Sections listed under “miscellaneous” above.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Section F: Cemeteries

<div style="border: 1px solid black; padding: 2px; display: inline-block; margin-bottom: 10px;"> New section effective Upon OCS issuance </div> <p>7-45 Compliance Requirement: <u>Ohio Rev. Code Section 4767.02 (A)</u></p> <p>Summary of requirement: <u>Subdivisions may not own, operate or manage cemeteries unless they register with the Ohio Department of Commerce.</u></p> <p><u>The Department sends a certificate to evidence its acceptance of the registration. A subdivision's registration is valid as long as it operates the cemetery. Except, a subdivision must update its application if it intends to acquire additional land for cemetery use.</u></p> <p>(Note: The Department of Commerce requested us to test this. They have found a number of unregistered governmental cemeteries.)</p>		
<p>Sample Questions and Procedures</p> <p><u>Read the registration certificate ODOD issued to the cemetery.</u></p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Appendix A

PRESCRIBED FORMS FOR CITATION OF LEGAL AUTHORITY

Note: The source of this Appendix is *The Bluebook- a Uniform System of Citation*, Seventeenth Edition. The recent seventeenth edition amended many of the forms in this 2006 Ohio Compliance Supplement versus the descriptions in the 2004 Ohio Compliance Supplement.

The Auditor of State and independent public accountants (IPAs) performing audits of public offices pursuant to Ohio Rev. Code Sections 115.56(B), 117.11, or 117.43, must follow legal authority in determining “whether the laws, ordinances, and orders pertaining to [a public] office have been observed, and whether the requirements and rules of the auditor of state have been complied with” Ohio Rev. Code Section 117.11(A). Legal authorities which may be cited in an audit report may include the Federal and State constitutions, the United States Code, the Ohio Revised Code, the Ohio Administrative Code, Federal and State court decisions, Federal and State regulations, opinions of the Attorney General, opinions of the Ethics Commission, and local ordinances and charters. Also, as described in *Government Auditing Standards*, non-compliance with provisions of contracts or grant agreements should be reported.

You should use the following forms of citation in all reports, letters, memoranda, opinions, and other documents if you are on the professional staff of the Auditor of State or are an IPA acting under contracts pursuant to Ohio Rev. Code Sections 115.56, 117.11(B), or 117.43.

Statutory Citations

Citations to the Ohio Revised Code should be in the following form:

Ohio Rev. Code § 325.19

Ohio Rev. Code Chapter 325

Ohio Rev. Code Title 3

Citations to the United States Code should be in the following form:

26 U.S.C. § 3402(a)

Attorney General Opinions

Opinions should be cited by year and opinion number in the following form:

1993 Op. Atty. Gen. No. 93-004 or 1993 Op. Att’y Gen. No.93-004

Court Cases

All citations to a reported case should use the following form:

Parsons v. Ferguson (1976), 46 Ohio St. 2d 389

↓ ↓ ↓ ↓ ↓
1 2 3 4 5

The elements of such a citation include:

1. The title of the case (italicized);
2. The date (in parentheses).
3. The volume number of the reporter in which the case is reported;
4. The abbreviation for the reporter; and
5. The page number at which the case commences

The following abbreviations should be used:

<u>Reporter</u>	<u>Abbreviation</u>
Ohio State Reports	Ohio St.
Ohio State Reports, Second Series	Ohio St. 2d
Ohio State Reports, Third Series	Ohio St. 3d
Ohio Reports	Ohio
Ohio Appellate Reports	Ohio App.
Ohio Appellate Reports, Second Series	Ohio App. 2d
Ohio Appellate Reports, Third Series	Ohio App. 3d
Ohio Miscellaneous	Ohio Misc. Or Ohio Misc. 2d
Ohio Bar Reports	Ohio B.
Ohio Opinions	Ohio Op.
Ohio Opinions, Second Series	Ohio Op. 2d
Ohio Opinions, Third Series	Ohio Op. 3d
Ohio Decisions	Ohio Dec.
Ohio Decisions, Reprint	Ohio Dec. Reprint
Ohio Circuit Court Decisions	Ohio C.C. Dec.
Ohio Circuit Court Reports	Ohio C.C.
Ohio Circuit Court Reports, New Series	Ohio C.C. (n.s.)
Ohio Circuit Decisions	Ohio Cir. Dec.

If a case has not been reported, it should cite to the case *name*, docket number, court, and the date of the most recent (disposition). For example:

Collins v. Ferguson (July 22, 1980), FRANKLIN App. No. 80-AP-245, unreported.

Ohio Administrative Code

Citations to the Ohio Administrative Code should be by code section and date in the following form:

Ohio Admin. Code § 117-08-01

Federal Regulations

Federal administrative rules and regulations should be cited by title and section number to the Code of Federal Regulations in the following manner:

47 C.F.R. (Part, if known) § 609 (year).

Ohio Ethics Commission Advisory Opinions

Opinions of the Ethics Commission should be cited by year and opinion number in the following form:

1976 O.E.C. No. 76-008 or Ohio Ethics Comm'n, Advisory Op. No. 76-008

Special Legislation

Citations to special (uncodified) legislation enacted prior to January 4, 1971, should be cited by name, year of session, page number, and year of enactment in the following manner:

An Act to establish the Bucyrus, Oceola, and Upper Sandusky Free Turnpike Road, 1845 Ohio Laws 128 (1845)

Citations to such legislation enacted after January 3, 1971, should be cited by name, year of session, page number, and year of enactment as follows:

Am. S. B. No. 96, 1979 Ohio Legis. Bull 5-142 (1979)

Federal and Ohio Constitution

Cite in the following form:

U.S. Const. Art. III, Section 2

Ohio Const. Art. II, Section 20

Municipal Ordinances

In citing municipal ordinances, give the name of the municipality first, followed by the name of the code, section, or subdivision, and the year of publication:

Hilltown, Codified Ordinances, Section 133.05 (1977) Uncodified ordinances should be cited by name of municipality, number or name of the ordinance, and the exact date of adoption:

Middleville, Ordinance to Regulate the Conduct of Scarlet Women (1883)

Appendix B

PUBLIC OFFICERS' BONDS

This Appendix sets forth the information necessary to determine whether local procedures concerning public officers' bonds meet those statutory guidelines.

Please keep the following in mind:

- 1 Bond required by ordinance: The Appendix lists only those municipal officers who are required by statute to give a bond. Other municipal officers may be required to give bond by ordinance passed by the municipal corporation's legislative authority. Ohio Rev. Code §§733.69 through 733.71, provide guidance on this matter. All municipal officers who must give bond by ordinance must do so before entering upon the duties of office, unless the code provides otherwise. Such bonds are prepared by the law director (or village solicitor) and are filed with the municipal auditor (or clerk). The legislative authority determines the amount of the bond, with the mayor's approval. (The mayor's bond is approved by the legislative authority.) All such official bonds are conditional upon the faithful performance of the duties of office.

- 2 Bonds of certain county employees: In addition to the bond requirements for county officers listed in the Appendix, Ohio Rev. Code Section 325.17 authorizes certain county officers (auditor, treasurer, probate judge, sheriff, clerk of courts, engineer and recorder) to appoint and employ the necessary assistants, clerks and deputies to manage the business of the office. Each officer may, at his discretion, require these employees to give bond to the state. The amount is fixed by the officer, the surety is approved by him, and the bond is conditioned for the faithful performance of the employee's official duties. All such bonds are filed with the county treasurer.

Some individuals who must give bond may be covered under a blanket bond. Others must obtain a bond in the individual's name only. Where it is provided by statute that an officer shall file a bond before entering upon the discharge of the duties of the office, that bond must be an individual official bond. If the requirement is not included in the statute, then an umbrella or blanket bond will satisfy the bonding requirement. 1965 Op. Atty. Gen. No. 65-087.

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Note: Previous versions of the Ohio Compliance Supplement included bonding requirements for the *Trustee of a County Hospital* and the *Administrator of a County Hospital*. However, those Ohio Revised Code bonding requirements no longer apply for these two public officers.

COUNTY BUILDING COMMISSIONER

STATUTORY REFERENCES: Ohio Rev. Code Sections 153.24 and 153.21

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: In the same amount as required of members of the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this State and approved by the judge of Court of Common Pleas.

CONDITIONED UPON: The faithful and honest discharge of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: County

APPROVED BY: Judge of the Court of Common Pleas.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: A county building commission is neither mandatory nor permanent, but exists only when created pursuant to Ohio Rev. Code Section 153.21.

COUNTY COMMISSIONER

STATUTORY REFERENCE: Ohio Rev. Code Section 305.04.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$5,000.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bond/surety company is used, it must be approved by the probate judge of the county.

CONDITIONED UPON: Faithful discharge of the official duties of the office, and for the payment of any loss or damage that the county may sustain by reason of the bonded official's failure in performing his duties.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the county.

APPROVED BY: Probate judge of the county.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of official duties.

PROSECUTING ATTORNEY

STATUTORY REFERENCES:	Ohio Rev. Code Section 309.03, 309.11 (official bond); Ohio Rev. Code Section 325.12(D) (FOJ Bond).
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$1,000 in amount fixed by the Court of Common Pleas or the Probate Court (official bond); Not less than official salary, to be fixed by the Court of Common Pleas or Probate Court (FOJ bond).
GIVEN WITH/SIGNED BY:	Official bond: a bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrance). If a bonding/surety company is used, it must be approved by the Court of Common Pleas or the Probate Court. FOJ bond: a surety approved either by the Court of Common Pleas or Probate Court.
CONDITIONED UPON:	Faithful discharge of the official duties, and to pay over all monies received by him in his official capacity.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Official bond: Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	The Court of Common Pleas or the Probate Court.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of official duties (official bond); before payment of FOJ monies (FOJ bond).
COMMENTS:	The Prosecuting Attorney prepares, in legal form, the bonds of all other county officers. Ohio Rev. Code Section 309.11. He must insure that all bonds are accepted, signed, indorsed and deposited with the proper officer. <u>No bond shall be accepted or approved for any county officer until the prosecuting attorney has inspected it and certified it to be sufficient.</u>

COUNTY SHERIFF

STATUTORY REFERENCES:	Ohio Rev. Code Section 311.02 (official bond); Ohio Rev. Code Section 325.071 (FOJ bond).
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000 nor more than \$50,000, in an amount to be fixed by the Board of County Commissioners (official bond); not less than official salary, to be fixed by the Court of Common Pleas or Probate Court (FOJ bond).
GIVEN WITH/SIGNED BY:	Official bond: a bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners. FOJ bond: a surety approved either by the Court of Common Pleas or the Probate Court.
CONDITIONED UPON:	Faithful performance of all duties (official bond); Faithful discharge of all official duties and to pay over all monies received by him in his official capacity (FOJ bond)
FILED/DEPOSITED WITH:	County Auditor (official bond); County Treasurer (FOJ bond).
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners (official bond), the Court of Common Pleas or the Probate Court (FOJ bond).
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Within 10 days after receiving his commission and before the first Monday of January next after his election (official bond); before payment of FOJ monies (FOJ bond).
COMMENTS:	<p>The Board of County Commissioners may require the Sheriff, at any time during his term of office, to give additional sureties on his official bond, or to give a new bond.</p> <p>No judge or clerk of any court or attorney at law shall be a surety (act as a guarantor) on a sheriff's bond.</p> <p>If a sheriff fails to give timely bond, or fails to give additional sureties on such bond (or a new bond) within 10 days after he has received notice that the Board so requires, the Board shall declare the office of such sheriff vacant.</p>

COUNTY CORONER

STATUTORY REFERENCE: Ohio Rev. Code Section 313.03.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$5,000 nor more than \$50,000 in an amount to be fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.

CONDITIONED UPON: Faithful performance of the official duties of office.

FILED/DEPOSITED WITH: County Auditor.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the County.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

COMMENTS: The Board of County Commissioners may require the coroner, at any time during his term of office, to give additional sureties on his bond, or to give a new bond.

No judge or clerk of any court or attorney at law shall be a surety (act as a guarantor) on a coroner's bond.

If a coroner fails to give timely bond, or fails to give additional sureties on such bond (or a new bond) within 10 days after he has received notice that the board so requires, the board shall declare the office of such coroner vacant.

COUNTY ENGINEER

STATUTORY REFERENCE: Ohio Rev. Code Section 315.03.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$2,000 nor more than \$10,000, in an amount to be fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.

CONDITIONED UPON: Faithful performance of the official duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the County.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

COUNTY RECORDER

STATUTORY REFERENCE: Ohio Rev. Code Section 317.02.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$10,000, in an amount to be fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.

CONDITIONED UPON: Faithful discharge of the official duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the County.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

COUNTY AUDITOR

STATUTORY REFERENCE: Ohio Rev. Code Section 319.02.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$5,000 nor more than \$20,000, in an amount to be fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.

CONDITIONED UPON: Faithful discharge of the official duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the County.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon of the duties of office.

COMMENTS: If an auditor-elect fails to give bond on or before the day on which he is required to take possession of his office, such office shall become vacant.

COUNTY TREASURER

STATUTORY REFERENCE: Ohio Rev. Code Section 321.02.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Given in such sum as the Board of County Commissioners shall direct.

GIVEN WITH/SIGNED BY: With a bonding or surety company authorized to do business in this State. The bonding/surety company must be approved by the Board of County Commissioners.

CONDITIONED UPON: Payment of all monies which come into his hands for state, county, township and other purposes.

FILED/DEPOSITED WITH: County Auditor.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the County.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Term of office.

WHEN GIVEN: On or before the day of the commencement of the official term of office and before entering upon the discharge of the duties of office.

COMMENTS: When, in the opinion of a majority of the members of the Board of County Commissioners, the sureties have become insufficient, such Board may require the Treasurer to give additional sureties on his previously accepted bond. When in its opinion more money has passed or is about to pass the hands of the Treasurer than is or would be covered by his bond, the Board may demand and receive from such Treasurer an additional bond, payable and conditioned as required for the original bond, with such sureties and in such sum as it directs. If a Treasurer fails or refuses to give such additional sureties or bond for 10 days from the day on which the Board so requires, his office shall be vacant and another treasurer appointed as in other cases of vacancy.

A Treasurer's bond must be entered in full on the record of proceedings of the Board of County Commissioners on the day when accepted or approved by it.

If a person elected to the office of Treasurer fails to give bond, as required, on or before the day of the commencement of his official term, the office shall become vacant.

DIRECTOR OF COUNTY DEPARTMENT OF JOB AND FAMILY SERVICES

STATUTORY REFERENCE: Ohio Rev. Code Section 329.01.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: In such sum as fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State and approved by the Board of County Commissioners.

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: From the appropriation for administrative expenses of the County Department of Welfare.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: The director may require any assistant or employee under his jurisdiction to give bond. Requirements for all such bonds are the same as above.

COUNTY DOG WARDEN

STATUTORY REFERENCES: Ohio Rev. Code Sections 955.12, 3929.14, and 3929.17.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$500, and not more than \$2,000, as set by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this State. (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Auditor.

BOND PAID BY: Board of County Commissioners from County funds. (3929.17)

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: No statutory direction.

COMMENTS: The statute requires the same bond as above for all deputy wardens.

The bond or bonds given under this statute may, in the discretion of the Board of County Commissioners, be individual or blanket bonds.

COUNTY PARK COMMISSIONER

STATUTORY REFERENCES: Ohio Rev. Code Sections 1545.05, 1545.13, 3929.14 and 3929.17.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: \$5,000.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this State. (3929.14)

CONDITIONED UPON: The faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Auditor.

BOND PAID BY: The County. (3929.17)

APPROVED BY: County Auditor.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the performance of the duties of office.

COMMENTS:

The board of park commissioners may hire employees to act as rangers and patrollers. Such employees, having the powers of police officers within and adjacent to the lands under the jurisdiction and control of the board, must give bond to the state in such sum as the board prescribes, "before exercising such powers." Ohio Rev. Code Section 1545.13.

CLERK OF COUNTY COURT

STATUTORY REFERENCES:	Ohio Rev. Code Sections 1907.20(A), 1907.20(E)(1), 1907.20(F)(1), 1907.20(F)(2), 3929.14 and 3929.17.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000, in an amount to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office.
BOND PAID BY:	Board of County Commissioners. (See Ohio Rev. Code Section 3929.17).
APPROVED BY:	We recommend the approval of the Board of County Commissioners.—(See Ohio Rev. Code Section 3929.17).
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.
COMMENTS:	<p>The Clerk of Courts (i.e., the Clerk of the Court of Common Pleas) shall also serve as the Clerk of County Courts, <u>except</u> that the Board of County Commissioners may, with the concurrence of the County Court Judge, appoint a clerk for each such County Court Judge. Such appointed clerks serve at the pleasure of the Board of County Commissioners. Where the Clerk of Courts also serves as the Clerk of the County Court, <u>no additional bond is required</u> (i.e., the bond given pursuant to Section 2303.02 is deemed sufficient). The above requirements pertain only to <u>appointed</u> clerks.</p> <p>In county court districts having appointed clerks, <u>deputy clerks</u> may be appointed by the Board of County Commissioners. The clerk may require any deputy clerk to give bond of not less than \$3,000. See Ohio Rev. Code §1907.20(E)(1). In county court districts having appointed clerks, the Board of County Commissioners may order the establishment of one or more branch offices of the clerk and may, with the concurrence of the County Court Judge, appoint a <u>special deputy clerk</u> to administer each branch office. The board may require any such special deputy clerk to give bond of not less than \$3,000. See Ohio Rev. Code §1907.20(F)(1).</p> <p>A Clerk of Courts acting as Clerk of County Court may establish one or more branch offices for his duties as such Clerk and may, with the concurrence of the County Court Judge, appoint a <u>special deputy clerk</u> to administer each branch office. The Clerk may require any such special deputy clerk to give bond of not less than \$3,000. See Ohio Rev. Code §1907.20(F)(2).</p>

PROBATE JUDGE

STATUTORY REFERENCES: Ohio Rev. Code Sections 2101.03, 2101.06, 2101.11(A)(1), 2101.11(C), 3929.14 and 3929.17

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$5,000.

GIVEN WITH/SIGNED BY: The statute states only that bond shall be given with "sufficient surety." Therefore, it would appear that Section 3929.14 would control, i.e., a bonding or surety company authorized to do business in this State.

CONDITIONED UPON: That the Probate Judge faithfully pay over all monies received by him in his official capacity; that he enter and record the orders, judgments and processing of the court; and, that he faithfully and impartially perform all the duties of his office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Board of County Commissioners. See Ohio Rev. Code §3929.17.

APPROVED BY: Board of County Commissioners. (In the absence from the county of two or more of the members of the board, the bond shall be approved by the County Auditor and County Recorder.)

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: As the state of business in the office of the Probate Judge renders it necessary, the Board of County Commissioners may require additional bond.

The Probate Judge, upon motion of a party or his own motion, may appoint a special master commissioner in any matter pending before such judge. The judge may require any such commissioner to execute a bond to the state in such sum as the court directs, with surety approved by the Court, and bond filed in the Court. See Ohio Rev. Code Section 2101.06.

Probate Judges are authorized by statute to appoint deputy clerks, stenographers, a bailiff and any other necessary employees. [2101.11(A)(1)] The judge may require any employee/appointee to give bond of not less than \$1,000. The sureties shall be approved in the same manner as those of the judge. See Ohio Rev. Code Section 2101.11(C).

CLERK OF JUVENILE COURT

(NOTE: Whenever the Courts of Common Pleas, Division of Domestic Relations, exercise the powers and jurisdiction conferred in Ohio Rev. Code Sections 2151.01, to 2151.54, or whenever the Juvenile Judge, or a majority of the juvenile judges of a multi-judge juvenile division, of a Court of Common Pleas, Juvenile Division and the Clerk of the Court of Common Pleas agree in an agreement that is signed by the Judge and the Clerk of Courts of Common Pleas shall keep the records of such costs. In all other cases, the Juvenile Judge shall be the Clerk of his own Court. The following requirements pertain only to counties where the judge acts as his own clerk.)

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2151.12, 2151.13, 3929.17, 2153.08 and 2153.10
BOND GIVEN TO:	State of Ohio, the county, or any person who may suffer loss by reason of a default in any of the conditions of the bond.
AMOUNT OF BOND:	A sum to be determined by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company licensed to do business in this State, and approved by the Board of County Commissioners.
CONDITIONED UPON:	The faithful performance of the duties of office as clerk.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners. See ORC Section 3929.17.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office as clerk.
COMMENTS:	The juvenile judge may appoint such bailiffs, probation officers, and other employees as are necessary for the Court's business. Such employees serve during the pleasure of the judge. The judge may require any employee to give bond in the sum of not less than \$1,000, conditioned for the honest and faithful performances of these duties. The sureties on such bonds shall be approved in the same manner as above. See Ohio Rev. Code Section 2151.13.

CLERK OF JUVENILE COURT (CONTINUED)

CUYAHOGA COUNTY:

In Cuyahoga County, the administrative juvenile judge shall serve as the clerk of his own court. Each such judge shall execute and file with the County Treasurer of Cuyahoga County a bond in the sum of not less than \$5,000, to be determined by the Board of County Commissioners of Cuyahoga County, with sufficient surety, to be approved by the Board, conditioned for the faithful performance of such duties as clerk. The bond is given for the benefit of Cuyahoga County, the State, and any person who may suffer loss by reason of a default in any of the conditions of said bond. In addition, the administrative judge may appoint and employ such deputies, clerks, stenographers and other assistants as are reasonably necessary in connection with the work of the court. He may require any such employee/appointee to give bond in the sum of not less than \$1,000, conditioned for the faithful performance of his duties. The approval of the sureties, the terms, the filing and the beneficiaries of such bonds are the same as those of the administrative judge acting as clerk. See Ohio Rev. Code Sections 2153.08 and 2153.10.

COUNTY JUVENILE REHABILITATION FACILITY SUPERINTENDENT

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2151.70, 3929.14 and 3929.17
BOND GIVEN TO:	Juvenile Court Judge or the Board.
AMOUNT OF BOND:	To be fixed by the Juvenile Court Judge or the Board.
GIVEN WITH/SIGNED BY:	“Sufficient surety” to the Judge or Board. (i.e. A surety or bonding company authorized to transact business in this State.) (3929.14)
CONDITIONED UPON:	The full and faithful accounting of all funds and properties coming into the superintendent's hands.
FILED/DEPOSITED WITH:	Juvenile Court Judge./ Board of Trustees
BOND PAID BY:	County. See ORC Section 3929.17.
APPROVED BY:	Juvenile Court Judge.
TERM OF BOND:	Tenure of Office.
WHEN GIVEN:	Before entering upon the duties of office.

BAILIFF OF COURT OF COMMON PLEAS

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2301.16, 2301.12(C), 3929.14 and 3929.17.
BOND GIVEN TO:	County Sheriff.
AMOUNT OF BOND:	\$5,000.
GIVEN WITH/SIGNED BY:	“Good and sufficient sureties” (i.e. A bonding or surety company authorized to do business in this State.) (3929.14)
CONDITIONS UPON:	Faithful discharge of the duties of office.
FILED/DEPOSITED WITH:	County Sheriff.
BOND PAID BY:	County. See ORC Section 3929.17.
APPROVED BY:	County Sheriff. See ORC Section 3929.17.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of duties of office.
COMMENTS:	In counties where there are 4 or more judges in the Court of Common Pleas, the judges appoint a <u>chief court constable</u> instead of a bailiff. The constable must meet the same bond requirements as a bailiff. See Ohio Rev. Code Section 2301.12(C).

CLERK OF THE COURT OF COMMON PLEAS

STATUTORY REFERENCE: Ohio Rev. Code Section 2303.02.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$10,000 nor more than \$40,000, to be fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State, or by two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a surety company is used, it must be approved by the Board of County Commissioners.

CONDITIONED UPON: That the clerk will enter and record all the orders, decrees, judgments and proceedings of the courts of which he is clerk; that he will pay over all monies received by him in his official capacity; and, that he will faithfully and impartially discharge the duties of his office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Board of County Commissioners, charged to the general fund of the County.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

EXECUTIVE DIRECTOR OF COUNTY CHILDREN SERVICES

STATUTORY REFERENCES: Ohio Rev. Code Section 5153.13, 5153.10, 3929.14 and 3929.17

BOND GIVEN TO: County.

AMOUNT OF BOND: In such sum as is fixed by Public Children Services Agency

GIVEN WITH/SIGNED BY: "Sufficient surety" (i.e., a surety or bonding company authorized to transact business in this State). (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office and the full and faithful accounting of all funds and properties coming into the Director's hands.

FILED/DEPOSITED WITH: No statutory direction.

BOND PAID BY: County/Public Children's Services Agency. See ORC Section 3929.17.

APPROVED BY: County/Public Children's Services Agency. See ORC Section 3929.17.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

COMMENTS: Each public children services agency shall designate an executive officer. The superintendent of the children's home, the county director of human services, or other individual may serve as Executive Director. See Ohio Rev. Code Section 5153.10.

EXECUTIVE DIRECTOR OF COUNTY CHILDREN SERVICES (CONTINUED)

COMMENTS:

In addition to the above bond to the county, the executive director must also give bond to the probate court. This bond must be given before entering upon the duties of office, with sufficient surety, conditioned upon the full and faithful accounting of all trust funds which the director holds on behalf of wards. The amount of this bond is determined by the court and may be modified by the court, provided that the minimum amount of the bond is \$5,000.

The agency may also require any employee thereof having custody or control of funds or property to give bond to the county in an amount that the board determines. The cost of such bonds is paid by the agency. In this context, "employee" would include the superintendent of the children's home.

SUPERINTENDENT/ADMINISTRATOR OF COUNTY HOME

STATUTORY REFERENCES: Ohio Rev. Code Sections 5155.04 and 3929.17

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: As the Board of County Commissioner requires.

GIVEN WITH/SIGNED BY: A surety acceptable to the Board of County Commissioners.

CONDITIONED UPON: Faithful discharge of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: County. See ORC 3929.17.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

COUNTY BRIDGE COMMISSIONER

STATUTORY REFERENCES: Ohio Rev. Code Sections 5593.05, 3929.14 and 3929.17

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: \$5,000.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business (3929.14) in this State.

CONDITIONED UPON: "According to Law."

FILED/DEPOSITED WITH: "(In the same manner) as other bonds required of county or city officials."

BOND PAID BY: County. See ORC Section 3929.17.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: No statutory direction

TREASURER OF MUNICIPAL CORPORATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 705.27, 733.69, 733.70, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	In such sums as the legislative authority of the Municipal Corporation fixed by ordinance or resolution. (705.27)
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	Mayor. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)
COMMENTS:	This Section (733.69) applies to all forms of municipal government, regardless of which "plan" the Municipal Corporation is organized under. (Therefore, the above requirements apply equally to the Commission Plan, the City Manager and the Federal Plan).

Ohio Rev. Code Section 705.27 also requires that bond be posted by all officers and employees of a Municipal Corporation who are directed to do so by the legislative authority. Bond requirements would be the same as those listed above.

AUDITOR (OR CLERK) OF MUNICIPAL CORPORATION

STATUTORY REFERENCES: Ohio Rev. Code Sections 705.27, 733.69, 733.70 and 3929.14.

BOND GIVEN TO: Municipal Corporation. (705.27)

AMOUNT OF BOND: In such sums as the legislative authority of the Municipal Corporation fixed by ordinance or resolution. (705.27)

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State. (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office. (705.27)

FILED/DEPOSITED WITH: Treasurer of the Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation. (705.27)

APPROVED BY: Mayor. (733.70)

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office. (733.69)

COMMENTS: This section (733.69) applies to all forms of municipal government, regardless of which "plan" the Municipal Corporation is organized under. (Therefore, the above requirements apply equally to the Commission Plan, the City Manager Plan and the Federal Plan).

Ohio Rev. Code Section 705.27 also requires that bond be posted by all officers and employees of a Municipal Corporation who are directed to do so by the legislative authority. Bond requirements would be the same as those listed above.

CITY MANAGER

STATUTORY REFERENCES: Ohio Rev. Code Sections 705.60, 733.69, 705.27, and 3929.14.

BOND GIVEN TO: Municipal Corporation.

AMOUNT OF BOND: In such sums as fixed by the council.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this State.
(3929.14)

CONDITIONED UPON: The faithful performance of the duties of office.

FILED/DEPOSITED WITH: Auditor (or Clerk) of Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation. (705.27)

APPROVED BY: The council of Municipal Corporation. (705.27)

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

SEALER OF WEIGHTS AND MEASURES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 733.65, 733.69, and 705.27.
BOND GIVEN TO:	Municipal Corporation.
AMOUNT OF BOND:	To be fixed by the legislative authority of the municipal corporation by ordinance.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this state and approved by the mayor of the municipal corporation.
CONDITIONED UPON:	The faithful performance of the duties of office.
FILED/DEPOSITED WITH:	Auditor (or clerk) of the municipal corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	Mayor of the municipal corporation.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

PUBLIC UTILITY BOARD MEMBER

STATUTORY REFERENCES:	Ohio Rev. Code Sections 735.03, 705.27, 733.69, 733.70, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	To be fixed by the legislative authority of the Municipal Corporation.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or clerk) of the municipal corporation. (733.69)
BOND PAID BY:	Municipal Corporation.
APPROVED BY:	Mayor of the Municipal Corporation. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)
COMMENTS:	Bond for public utilities board members is not mandatory, but left to the discretion of the legislative authority of the municipal corporation.

TRUSTEE OF MUNICIPAL SINKING FUND

STATUTORY REFERENCES: Ohio Rev. Code Sections 739.02, 705.27, 733.69, and 733.70

BOND GIVEN TO: Municipal Corporation. (705.27)

AMOUNT OF BOND: To be fixed by the legislative authority of the Municipal Corporation. (705.27)

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business in this State.

CONDITIONED UPON: Faithful performance of the duties of office. (705.27)

FILED/DEPOSITED WITH: Auditor (or Clerk) of the municipal corporation. (733.69)

BOND PAID BY: Funds under the control of the Board of Trustees of the sinking fund.

APPROVED BY: Mayor of the Municipal Corporation. (733.70)

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office. (733.69)

COMMENTS: Bond left to discretion of legislative authority of the Municipal Corporation

RAPID TRANSIT COMMISSIONER

STATUTORY REFERENCES: Ohio Rev. Code Sections 747.01, 705.27, 733.69, 733.70, and 3929.14 .

BOND GIVEN TO: Municipal Corporation. (705.27)

AMOUNT OF BOND: To be fixed by the legislative authority of the Municipal Corporation.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business in this State. (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office. (705.27)

FILED/DEPOSITED WITH: Auditor (or Clerk) of the Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation.

APPROVED BY: Mayor of the Municipal Corporation. (733.70)

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office. (733.69)

TRUSTEE OF MUNICIPAL HOSPITAL

STATUTORY REFERENCES: Ohio Rev. Code Sections 749.22, 705.27, 733.69, and 3929.14.

BOND GIVEN TO: Municipal Corporation. (705.27)

AMOUNT OF BOND: \$2,500.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business in this State. (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office. (705.27)

FILED/DEPOSITED WITH: Auditor (or Clerk) of the Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation. (705.27)

APPROVED BY: The mayor and the legislative authority of the Municipal Corporation.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

TRUSTEE OF MUNICIPAL PARK

STATUTORY REFERENCES: Ohio Rev. Code Sections 755.23, 705.27, 733.69, and 3929.14.

BOND GIVEN TO: Municipal Corporation. (705.27)

AMOUNT OF BOND: \$2,500.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business in this State. (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office. (705.27)

FILED/DEPOSITED WITH: Auditor (or Clerk) of the Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation. (705.27)

APPROVED BY: The Mayor and the legislative authority of the Municipal Corporation.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

CLERK OF MUNICIPAL COURT

STATUTORY REFERENCES:	Ohio Rev. Code. Sections 1901.31(D), 1901.31(A)(1)(b), 1901.31(H), 1901.311, 733.69, 3929.14 and 705.27.
BOND GIVEN TO:	Municipal Court. (705.27)
AMOUNT OF BOND:	Not less than \$6,000 in an amount to be determined by the judges of the Court.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties as clerk.
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	The judges of the Municipal Court.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	<p><u>Special deputy clerk:</u> A municipal court may establish one or more branch offices or may appoint a special deputy clerk to administer each branch office. The municipal court may require any such special deputy clerk to give bond of not less than \$3,000, conditioned for the faithful performance of the duties of office. See Ohio Rev. Code Section 1901.311 .</p> <p><u>Deputy Clerk:</u> Deputy clerks may be appointed by the clerk, who may require any such deputy to give bond or not less than \$3,000, conditioned for the faithful performance of his duties. See Ohio Rev. Code. Section 1901.31(H)</p> <p>In certain counties (e.g., Hamilton County) the clerk of courts of the county is required, by statute, to also serve as clerk of the municipal court. See Ohio Rev. Code Section 1901.31(A)(1)(b).</p>

BAILIFF OF MUNICIPAL COURT

STATUTORY REFERENCES: Ohio Rev. Code Sections 1901.32(A)(1), 1901.32(A)(2), 705.27, 733.69, 733.70, and 3929.14.

BOND GIVEN TO: Municipal Court. (705.27)

AMOUNT OF BOND: Not less than \$3,000, in an amount to be fixed by the legislative authority.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this State. (3929.14)

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: Auditor (or Clerk) of the Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation. (705.27)

APPROVED BY: Mayor of the Municipal Court. (733.70)

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: The Court has the power to appoint any number of deputy bailiffs. Each deputy bailiff must give a bond in an amount of not less than \$1,000. See Ohio Rev. Code Section 1901.32(A)(2).

CITY BRIDGE COMMISSIONER

STATUTORY REFERENCES: Ohio Rev. Code Sections 5593.05, 705.27, 733.69, and 3929.14.

BOND GIVEN TO: Municipal Corporation. (705.27)

AMOUNT OF BOND: \$5,000.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to transact business in this State. (3929.14)

CONDITIONED UPON: "According to law".

FILED/DEPOSITED WITH: Auditor (or Clerk) of the Municipal Corporation. (733.69)

BOND PAID BY: Municipal Corporation. (705.27)

APPROVED BY: The Board or legislative authority of the municipal corporation.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office. (733.69)

TOWNSHIP TRUSTEE

STATUTORY REFERENCES: Ohio Rev. Code Sections 505.02, 3929.17, 507.04(A), and 505.03.

BOND GIVEN TO: State of Ohio, for the use of the township.

AMOUNT OF BOND: \$1,000.

GIVEN WITH/SIGNED BY: At least 2 sureties, who shall be residents of the same township with the trustee or a corporate surety authorized to do business in this State.

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: Township Clerk. See Ohio Rev. Code Section 507.04(A), which requires the clerk to record the acceptance of all bonds.

BOND PAID BY: Township. See ORC Section 3929.17.

APPROVED BY: A judge of the county court or judge of a municipal court having jurisdiction in the township.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: Whenever he claims it necessary, and on application of a least 12 free-holders of the township, the judge of the county court or municipal judge having jurisdiction in the township who approves the bond may require additional security or the execution of a new bond. If a trustee fails, for 10 days, to give additional security or execution of a new bond after service of such notice in writing, the office shall be declared vacant. See Ohio Rev. Code §505.03.

TOWNSHIP FISCAL OFFICER

STATUTORY REFERENCES: Ohio Rev. Code Sections 507.03, 3929.17, 507.02, 507.021(C).

BOND GIVEN TO: Board of Township Trustees.

AMOUNT OF BOND: In such sums as the Board of Township Trustees shall determine, but not less than the sum provided in 507.03.

GIVEN WITH/SIGNED BY: A surety or sureties approved by the Board of Township Trustee.

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Township Trustees.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: When a Township Clerk is unable to carry out the duties of his office because of illness, or military service, or because he is otherwise incapacitated or disqualified, the Board of Township Trustees will appoint a deputy clerk to discharge the duties of the office. Before entering upon the discharge of those duties, the deputy clerk must give bond, meeting all the above requirements. See Ohio Rev. Code Section 507.02.

Before serving, an assistant to the township clerk shall give bond for the faithful discharge of duties of the office as may be delegated by the clerk. The bond shall be payable to the board of township trustees and shall be for the same sum as required under section 507.03 of the Revised Code for the township clerk, with sureties approved by the board, and conditioned for the faithful performance of duties delegated by the clerk. The bond shall be recorded by the township clerk, filed with the county treasurer, and carefully preserved. See Ohio Rev. Code Section 507.021(C).

TOWNSHIP CONSTABLE

STATUTORY REFERENCES: Ohio Rev. Code Sections 509.02, 3929.17, and 3.06.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$500 nor more than \$2,000, to be fixed by the Board of Township Trustees.

GIVEN WITH/SIGNED BY: Sureties that are residents of the township approved by the board of township trustees.

CONDITIONED UPON: The faithful and diligent discharge of the duties of office.

FILED/DEPOSITED WITH: Township clerk.

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Township Trustees.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: A special constable appointed under Ohio Rev. Code Section 1907.201, is not required to give a bond. See 1958 Op. Atty Gen. No. 3061.

This bond requirement may be fulfilled with a blanket bond obtained in compliance with Ohio Rev. Code Section 3.06.

TOWNSHIP PARK DISTRICT EMPLOYEES

STATUTORY REFERENCES: Ohio Rev. Code Sections 511.232, 507.04, 3929.14 and 3929.17.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: A sum to be fixed by the Board of Park Commissioners of the Township.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this state. (3929.14)

CONDITIONED UPON: The proper performance of duties.

FILED/DEPOSITED WITH: Township clerk. (507.04)

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Park Commissioners of the Township.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before exercising the powers granted by the Board.

COMMENTS:

The above bond requirements do not necessarily apply to all park district employees. Ohio Rev. Code Section 511.232 states, in pertinent part: "Employees designated by the board...may enforce the laws of the state and the regulations of the board within and adjacent to the lands under the jurisdiction and control of the board. Before exercising such powers, the employees so designated shall...give a bond..." Thus, only those employees who are designated by the board as law enforcement employees are required to give bond under the above statute.

TOWNSHIP ZONING INSPECTOR

STATUTORY REFERENCES: Ohio Rev. Code Sections 519.161 and 3929.17.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: Not less than \$1,000 nor more than \$5,000 in an amount to be fixed by the Board of Township Trustees.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this state, or two or more freeholders having real estate in the value of double the amount of the bond, over and above all encumbrances. If a surety/bonding company is used, it must be approved by the Board of Township Trustees.

CONDITIONED UPON: The faithful performance of the official duties.

FILED/DEPOSITED WITH: Township clerk.

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Township Trustees.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

TOWNSHIP HIGHWAY SUPERINTENDENT

STATUTORY REFERENCES: Ohio Rev. Code Sections 5571.04, 3929.14, 3929.17, and 5571.02(C).

BOND GIVEN TO: State of Ohio, for the use of the Township.

AMOUNT OF BOND: \$2,000.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business in this state. (3929.14)

CONDITIONED UPON: The faithful performance of the duties of office.

FILED/DEPOSITED WITH: Township clerk.

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Township Trustees.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS:

The appointment of a person to the office of township highway superintendent is not mandatory, but within the discretion of the board of trustees. Therefore, bond is required only where the board determines to proceed with such appointment pursuant to Ohio Rev. Code Section 5571.02(C).

TREASURER OF BOARD OF EDUCATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3313.25 and 3929.17.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	The Treasurer of a Board of Education must furnish a bond in an amount to be approved by the Board, but the amount of the bond must bear a reasonable relationship to the duties of the Treasurer and to the amount of money and property coming into his control during his term of office. 1957 Op. Atty Gen. 706.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this state and approved by the Board of Education.
CONDITIONED UPON:	The faithful performance of all the official duties of office.
FILED/DEPOSITED WITH:	President of Board of Education. (A copy of this bond, certified by the President, must be filed with the County Auditor).
BOND PAID BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Education. See Ohio Rev. Code Section 3313.25.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

BUSINESS MANAGER OF BOARD OF EDUCATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3319.05, 3929.14 and 3929.17.
BOND GIVEN TO:	Board of Education.
AMOUNT OF BOND:	It is mandatory that the Business Manager of a city school district furnish bond in an amount to be approved by the Board of Education but the amount of the bond must bear a reasonable relationship to his duties and to the amount of property coming into this hands during his term of office. 1957 Op. Atty Gen. 706.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	The faithful discharge of the duties of office.
FILED/DEPOSITED WITH:	Board of Education.
BOND PAID BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
TERM OF BOND:	Tenure of employment.
WHEN GIVEN:	No statutory guidance.

PUBLIC SCHOOL BUS DRIVER

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3327.10(C), 3929.14 and 3929.17.
BOND GIVEN TO:	Board of Education.
AMOUNT OF BOND:	"Satisfactory and sufficient bond" to be fixed by the Board of Education.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	No statutory condition indicated.
FILED/DEPOSITED WITH:	Board of Education.
BOND PAID BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
TERM OF BOND:	Tenure of employment.
WHEN GIVEN:	No statutory guidance direction on this question.
COMMENTS:	<p>School bus drivers who are employees of a school district and who drive buses or motor vans owned by the school district are not required to give bond. However, where drivers or buses are furnished by contract, bond must be given.</p> <p>Blanket bonds may be procured for the coverage of school bus drivers. A bus driver does not have to execute an "individual" bond. See 1957 Op. Atty Gen. 1053.</p> <p>The statutory bond requirement is mandatory--- a board of education may not waive it. See 1957 Op. Atty Gen. 706.</p>

CLERK OF BOARD OF LIBRARY TRUSTEES

STATUTORY REFERENCES: Ohio Rev. Code Sections 3375.32 and 3929.17.

BOND GIVEN TO: Board of Library Trustees.

AMOUNT OF BOND: To be fixed by the Board of Library Trustees.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this state and approved by the Board of Library Trustees.

CONDITIONED UPON: The faithful performance of the official duties required of him.

FILED/DEPOSITED WITH: No statutory direction.

BOND PAID BY: Board of Library Trustees. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Library Trustees. See Ohio Rev. Code Section 3375.32.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

DEPUTY CLERK OF BOARD OF LIBRARY TRUSTEES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3375.36 and 3929.17.
BOND GIVEN TO:	Board of Library Trustees.
AMOUNT OF BOND:	To be fixed by the Board of Library Trustees.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State and approved by the Board of Library Trustees.
CONDITIONED UPON:	The faithful performance of the official duties required of him.
FILED/DEPOSITED WITH:	No statutory direction.
BOND PAID BY:	Board of Library Trustees. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Library Trustees. See Ohio Rev. Code Section 3375.36.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

Appendix C

Ohio Rev. Code § 5705.01

Chapter 1 of this Ohio Compliance Supplement discusses budgetary, revenue, and certain other related laws and regulations applicable to “subdivisions,” “taxing authorities” and “taxing units,” as appropriate. These terms are defined below.

(A) "Subdivision" means any county; municipal corporation; township; township police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a county school financing district; or a city, local, exempted village, cooperative education, or joint vocational school district.

...

(C) "Taxing authority" or "bond issuing authority" means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction, and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. "Taxing authority" also means the educational service center governing board that serves as the taxing authority of a county school financing district as provided in section 3311.50 of the Revised Code.

...

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

Appendix D: Compliance ACE Form

Assessment of the Compliance Controls' Environment

In assessing the compliance controls environment, the auditor should consider:

- Existence of a monitoring system for compliance with such areas as debt issuance, budgets, contracts, and grants and assistance;
- Management's attitudes towards compliance with laws and regulations;
- Legal actions brought against the government, and/or its elected and appointed officials; and
- Involvement of the governing authority and management in the control structure to assure compliance.

The following factors may influence that auditor's assessment of risk of significant non-compliance with laws and regulations:

- Elected officials and management should convey the message that integrity and ethical values with the organization cannot be compromised and employees must receive and understand that message.
- Management must specify the level of competence needed for particular jobs, and translate the desired levels of competence into requisite knowledge and skills.
- An active and effective governing board, or committees thereof, provides an important oversight function and, because of management's ability to override system controls, the board plays an important role in ensuring effective internal control.
- The philosophy and operating style of management normally have a pervasive effect on an entity.
- The organizational structure should be neither so simple that it cannot adequately monitor the entity's activities nor so complex that it inhibits the flow of necessary information.
- The assignment of responsibility, delegation of authority and establishment of related policies provide a basis for accountability and control, and set forth individuals' respective roles.
- Human resources policies are central to recruiting and retaining competent people to enable the entity's plans to be carried out so its goals can be achieved.

A form to document the auditor's consideration of the compliance controls' environment follows. However, independent public accountants may use other similar practice aids as long as they cover all of the same areas for assessing the government's compliance controls environment.

Instructions for Using the ACE Form

- **IMPORTANT:** This 2006 OCS ACE now groups the points of focus previously repeated in each chapter into a “common” section in the first table following this page. The subsequent sections include only points of focus specific to that OCS chapter (e.g. Chapter 1 budgeting). Where audit staffs have already completed a 2004 OCS ACE, they may choose to update the 2004 OCS ACE in lieu of completing this version, *if they add the points of focus newly included in this version.*
- The new points of focus are underlined in this version.
- Illustrative points of focus are given for each area. The auditor should not answer 'Yes' or 'No' to the points of focus. Rather, the auditor should comment on each area, using the points of focus as further guidance where appropriate, basing comments on information available from prior years' audits, inquiries of individuals inside and outside the organization, knowledge of factors outside the government that affect its activities, observation of circumstances that are known or are understood to exist within the government, and, in some circumstances, inspection of documents.
- The areas for assessment and illustrative points of focus in the ACE are not equally relevant to all engagements, and the significance of any particular area or point of focus varies with the government. Thus, the auditor should judge the applicability and importance of each in the context of the engagement.
- In assessing the control environment, the auditor should recognize that neither the areas for assessment nor the illustrative points of focus are necessarily all-inclusive. The auditor may encounter matters affecting the control environment other than those addressed by the ACE. The auditor should document those matters and assess their effect on the control environment.
- In assessing the control environment, the auditor should look beyond the form of control measures and management actions and should concentrate on their substance. An environment may appear to be favorable but in reality may not be. For instance, a system may provide adequate reports for the governing board or senior management, but if the information is not analyzed and acted on, the system does not contribute to the control environment. Similarly, a government may establish appropriate policies; however, to be effective, they should be enforced by management. For example, although a government may have a formal code of conduct, management may have a record of condoning actions that violate it. By not reprimanding such actions, management sends a clear message undermining the code of conduct.

Audit Implications

- After assessing each area, the auditor should consider the audit implications of any circumstances coming to his or her attention that may affect the audit strategy and audit program, or that may represent a matter for which we can offer a recommendation for improvement.

Application to Small and Mid-sized Entities

- Small and mid-sized entities may implement the control environment areas differently than larger entities. For example, smaller entities might not have a written code of conduct but instead, develop a culture that emphasizes the importance of integrity and ethical behavior through oral communication and by management example. However, these conditions may not affect the auditor's assessment of control risk.

Note to Auditor of State Employees

- If the compliance points of focus are adequately addressed in the financial ACE that you completed, a cross reference to that documentation is sufficient.

General Compliance Environment Considerations Applicable to All OCS Chapters	
Area for Assessment	Comments
<p>The following factors may influence the auditor's assessment of risk of significant non-compliance with laws and regulations:</p> <p><i>Elected officials and management should convey the message that integrity and ethical values with the organization cannot be compromised and employees must receive and understand that message.</i></p> <p><i>Similarly, elected officials and managements' actions should demonstrate a clear commitment to complying with applicable laws and regulations, and a policy of disciplining those who do not comply with applicable laws or those attempting to override prescribed controls.</i></p> <p><i>Elected official and management should demonstrate an interest in assuring a suitable system of controls is designed and is operating effectively. They should be actively involved in monitoring the government's compliance with material laws and regulations.</i></p> <p>Management should make it clear through personal actions and policy statements the importance of ethical and honest behavior. If management is unable to communicate this message it is doubtful that they can remove or reduce incentives for an employee to engage in dishonest, illegal, or unethical acts.</p> <p><i>An active and effective governing board, or committees thereof, provides an important oversight function and, because of management's ability to override system controls, the board plays an important role in ensuring effective internal control.</i></p> <p>The board should constructively challenge management's planned decisions and probe for explanations of past results (e.g., budget variances).</p> <p><i>The philosophy and operating style of management normally have a pervasive effect on an entity.</i></p> <p>Management should move carefully, proceeding only after carefully analyzing the risks and potential benefits of a venture. If management does not move carefully there is an increased risk that they might violate budgetary laws that could result in the misappropriation of funds and illegal expenditures.</p> <p><i>The organizational structure should be neither so simple that it cannot adequately monitor the entity's activities nor so complex that it inhibits the flow of necessary information.</i></p>	

General Compliance Environment Considerations Applicable to All OCS Chapters	
Area for Assessment	Comments
<p>Non-elected officials, senior management, and others in key management positions (particularly those directly responsible for compliance with material laws and regulations) should fully understand their control responsibilities and possess the requisite experience and levels of knowledge commensurate with their positions.</p> <p><i>Management must specify the level of competence needed for particular jobs, and translate the desired levels of competence into requisite knowledge and skills.</i></p> <p>Management should analyze, on a formal or informal basis, the tasks comprising particular jobs, considering such factors as the extent to which individuals must exercise judgment and the extent of related supervision. If employees are not trained and they do not know what is expected of them, there is an increased risk of error which could result in material non-compliance.</p> <p><i>The assignment of responsibility, delegation of authority and establishment of related policies provide a basis for accountability and control, and set forth individuals' respective roles.</i></p> <p>Management should assure employees understand the scope of their assigned duties. If management is unable to communicate to an employee his or her responsibilities, it is doubtful that they can reduce the likelihood of unnecessary mistakes made by employees.</p> <p><i>Human resources policies are central to recruiting and retaining competent people to enable the entity's plans to be carried out so its goals can be achieved.</i></p> <p>Management should establish personnel policies and procedures that result in recruiting or developing competent and trustworthy people necessary to support an effective internal control system. If management does not strive to hire competent people, there is an increased risk that an employee may engage in dishonest or illegal acts.</p> <p><u><i>The human resource function should specify minimum requirements for positions.</i></u></p> <p><u><i>The human resources function should have written job descriptions for employees.</i></u></p>	

General Compliance Environment Considerations Applicable to All OCS Chapters	
Area for Assessment	Comments
Audit implications and/or management comments:	

Budgetary (OCS Chapter 1)	
Area for Assessment	Comments
<p>The following factors may influence the auditor's assessment of risk of significant non-compliance with budget laws and regulations:</p> <p>Management develops strategic plans and budgets to monitor the activities of the entity. To be effective, these plans and budgets should be realistic, based on valid assumptions and developed by knowledgeable individuals. Management must also have sufficient reliable information on a timely basis to review and evaluate the entity's operations.</p> <p><i>Consider for example, the following points of focus:</i></p> <ul style="list-style-type: none"> - <i>Existence of a budgetary monitoring system and compliance function</i> - <i>Attitudes towards compliance with budgetary laws and regulations</i> - <i>Governing authority and management's involvement in the internal control structure to assure compliance with budgetary laws and regulations.</i> - <i>The effectiveness of the budget process (i.e. segregation of duties for budget preparation, adoption, execution and reporting).</i> - <i>The level of detail and informational value of plans and budgets and of financial, statistical, or other information used by management with respect to:</i> <ul style="list-style-type: none"> · <i>its relevance to the respective manager's responsibilities,</i> · <i>its sufficiency,</i> · <i>the frequency and timeliness with which it is received, and</i> · <i>its reliability.</i> - <i>Appropriate involvement of personnel, for example:</i> <ul style="list-style-type: none"> · <i>both senior management and lower-level personnel,</i> · <i>managers, for activities relating to their respective areas of responsibility, and</i> · <i>suitably knowledgeable and experienced personnel (such as operating line management).</i> - <i>The comparison of current conditions or results with appropriate benchmarks (e.g., the preceding year's conditions or results, or a practicably achievable budget or plan, etc.).</i> - <i>The intended purpose of plans and budgets (e.g., to reflect management's reasonable expectations or to serve as "motivational" tools reflecting unrealistic targets).</i> - <i>The assumptions underlying strategic plans and budgets; that is, whether they:</i> <ul style="list-style-type: none"> · <i>reflect the entity's historical experience and conditions currently affecting operations, and</i> · <i>are consistent and are communicated to the appropriate</i> 	

Budgetary (OCS Chapter 1)	
Area for Assessment	Comments
<p><i>personnel.</i></p> <ul style="list-style-type: none"> - <i>The past record of the entity in meeting plans and budgets.</i> - <i>The effectiveness of monitoring performance with respect to:</i> <ul style="list-style-type: none"> · <i>documentation of significant departures from plans, with explanation,</i> · <i>evaluation of explanations by the appropriate levels of management or the governing authority,</i> · <i>implementing corrective actions by appropriate levels of management and follow-up by senior management.</i> · <i>timeliness of consideration of the effect of changes in the economy, industry, and competition,</i> · <i>indication and timeliness of corrective actions,</i> - <u><i>An accounting system that integrates budgetary accounts to provide continuous information regarding available appropriations and estimated resources not yet received.</i></u> <p>Note: <u>The AICPA's State & Local Government Audit Guide, 11.25 & .26 cautions the auditor to consider whether the government uses its budget to control spending or instead, uses spending to establish (i.e. amend) the budget. Many governments do the latter, in which case analytical procedures relating to the budget may not be valid support for financial position and activity statement assertions.</u></p>	
<p>Audit implications and/or management comments:</p>	

<i>Contracts and Expenditures (OCS Chapter 2)</i>	
Area for Assessment	Comments
<p><i>Points of Focus</i></p> <ul style="list-style-type: none"> - <i>Existence of a contract and expenditures monitoring system and compliance function</i> - <i>Attitudes towards compliance with contract and expenditures laws and regulations</i> - <i>Legal actions brought against the entity, elected and non-elected officials related to contract compliance.</i> - <i>Governing authority's and management's involvement in the internal control structure to assure compliance with contracts and expenditures laws and regulations.</i> 	
<p>Audit implications and/or management comments:</p>	

<i>Debt (OCS Chapter 3)</i>	
Area for Assessment	Comments
<p style="text-align: center;"><i>Points of Focus (Debt)</i></p> <ul style="list-style-type: none"> - <i>Existence of a debt monitoring system and compliance function</i> - <i>Attitudes towards compliance with debt laws and regulations</i> - <i>Legal actions brought against the entity, elected and non-elected officials</i> - <i>Governing authority's and management's involvement in the internal control structure to assure compliance with debt laws and regulations</i> - <i><u>Willingness to use bond counsel or other specialists (e.g. arbitrage specialists) when issuing debt.</u></i> - <i><u>Accounting system suitably designed to comply with any requirements to separately account for debt proceeds or debt service payments.</u></i> 	
<p>Audit implications and/or management comments:</p>	

<i>Accounting and Reporting (OCS Chapter 4)</i>	
Area for Assessment	Comments
<p>Points of Focus</p> <ul style="list-style-type: none"> - Existence of a monitoring system and compliance function - Attitudes towards compliance with accounting and reporting laws and regulations - Legal actions brought against the entity, elected and non-elected officials - Governing authority's and management's involvement in the internal control structure to assure compliance with accounting and reporting laws and regulations. - <u>Accounting system suitably designed to accommodate the volume of transactions, the requirements to separately account for restricted resources, and that integrates budgetary reporting.</u> - <u>Accounting staff sufficiently trained and knowledgeable of laws and applicable accounting and reporting requirements.</u> 	
<p>Audit implications and/or management comments:</p>	

Deposits and Investments (Chapter 5)	
Area for Assessment	Comments
<p>Points of Focus</p> <ul style="list-style-type: none"> - <i>Existence of a deposits and investments monitoring system and compliance function</i> - <i>Existence of a written investment policy and an investment committee to monitor compliance</i> - <i>Attitudes towards compliance with deposits and investments laws and regulations</i> - <i>Legal actions brought against the entity, elected and non-elected officials</i> - <i>Governing authority's and management's involvement in the internal control structure to assure compliance with deposits and investments laws and regulations.</i> - <u><i>Basic knowledge of laws restricting investment instruments, or a practice of referring to ORC 135 and written investment policies, and knowledge of the features and risks of investments prior to purchasing them.</i></u> - <u><i>Sufficient cash flow planning to avoid investment losses resulting from insufficient liquidity. (For example, investing all available cash in a 5 year instrument could require selling it at a loss prior to maturity if the government needs the cash before the five-year maturity.)</i></u> 	
<p>Audit implications and/or management comments:</p>	

Other Potentially Direct and Material Laws and Regulations (OCS Chapter 6)	
Area for Assessment	Comments
<p>Points of Focus</p> <ul style="list-style-type: none"> - <i>Existence of an appropriate monitoring system and compliance function</i> - <i>Attitudes towards compliance with indicated laws and regulations</i> - <i>Legal actions brought against the entity, elected and non-elected officials</i> - <i>Governing authority's and management's involvement in the internal control structure to assure compliance with indicated laws and regulations.</i> - <u><i>Accounting system suitably designed to provide information when needed, such as information related to insurance claims, landfill closure or postclosure costs.</i></u> - <u><i>Suitable systems and procedures for collecting other financially significant information reliably, such as landfill usage, student attendance statistics.</i></u> 	
<p>Audit implications and/or management comments:</p>	

Appendix E

Elected Officials' Compensation Legislation

This Appendix replaces Appendix F from the 2004 revision of the Ohio Compliance Supplement. It includes, respectively, an excerpt from Auditor of State Bulletin 2001-001, a table from Auditor of State Bulletin 1996-014, updated compensation tables for county officials, and updated compensation tables for township officials.

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(Source: www.ccao.org/cgi/newsltr.plx?c)

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Updated Township Official Tables 26
(Source: November 2005 OTA Newsletter)

AUDITOR OF STATE BULLETIN 2001-001

February 9, 2001

**TO: ALL COUNTY AUDITORS
ALL COUNTY CLERKS OF COURTS
ALL COUNTY COMMISSIONERS
ALL COUNTY CORONERS
ALL COUNTY ENGINEERS
ALL COUNTY PROSECUTING ATTORNEYS
ALL COUNTY RECORDERS
ALL COUNTY SHERIFFS
ALL COUNTY TREASURERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS**

**SUBJECT: COMPENSATION INCREASE LEGISLATION PERTAINING TO
NONJUDICIAL COUNTY ELECTED OFFICIALS
(SUBSTITUTE HOUSE BILL NUMBER 712)**

Attached is a copy of the County Commissioners' Association of Ohio's Advisory Bulletin 00-7 outlining the various compensation increases for county elected officials set forth in House Bill 712, which was passed by the General Assembly as an emergency measure and took effect on December 8, 2000. The information contained in the CCAO's advisory bulletin has been reviewed by the State Auditor's Office and we concur with its content.

Below are two points relating to the timing and effect of this pay increase legislation that are discussed in CCAO's bulletin which we believe deserve special emphasis.

Timing of Compensation Increases

Article II, section 20 of the Ohio Constitution generally prohibits elected officials from receiving increases in their compensation in the midst of their terms of office. Because HB 712 took effect on December 8, 2000, the compensation increases and the new eight (8) class population-based compensation schedule in the bill are applicable only to those county officials whose current terms of office began after December 8, 2000. Therefore, the two county commissioners, as well as the prosecuting attorney, sheriff, coroner, engineer, recorder and clerk of the court of common pleas in each county who were elected, or re-elected, in November 2000 and were sworn into office in January 2001 may receive the compensation increases provided for in the bill and are subject to the new eight (8) class population-based compensation schedule.

Because the new terms of office of elected, or re-elected, county treasurers this year do not begin until September 3, 2001, current county treasurers, even if re-elected in November 2000, are not

immediately entitled to the compensation increases provided for in the bill and are still subject to the former law's fourteen (14) class population-based compensation schedule until their next terms begin. Re-elected county treasurers can receive the compensation increase provided in HB 712 only upon commencement of their new term of office on September 3, 2001. Likewise, the county auditor and the one commissioner in each county who were not on the ballot in November 2000 cannot immediately receive the compensation increases in the bill, nor are they now subject to the new eight (8) class compensation schedule. Those county officials must be re-elected in November 2002 and commence their new terms of office in 2003 to receive the compensation increase in HB 712 and to be subject to the new compensation schedule.¹

In-Term Compensation Increases Based on Statutory Population Classes

With the results of the decennial census becoming available sometime in the next several months, it is important to highlight the effect the updated population figures will have on the compensation levels of county officials. A 1999 Ohio Attorney General Opinion (No. 99-033) makes it clear that an elected county official is permitted to receive an in-term increase in compensation as a result of a population increase that places the county in a higher classification, provided that the pertinent statutory schedule was in effect prior to the commencement of that officer's term. Thus, any county official whose county rises to a higher statutory population class will be eligible for an in-term compensation increase effective on the date the Governor receives the census results.

However, please note that 1999 Op. Att'y Gen. No. 99-033 explained that county officials may receive a compensation increase in the midst of their terms due to the decennial census pushing their county into a higher population classification only if the statutory compensation schedule was in effect prior to the commencement of their terms. With its effective date of December 8, 2000, HB 712 was not in effect prior to the commencement of the current terms of all county treasurers, county auditors and the one commissioner in each county not elected or re-elected in November 2000. Thus, for all county treasurers, county auditors and the one commissioner not elected or re-elected in November 2000, the former law's fourteen (14) class population-based compensation schedule should be analyzed for possible increases to higher population classes when the decennial census information is officially received by the Governor. For all other county elected officials, the new eight (8) class compensation schedule should be consulted when the decennial census information is released.

Questions about this bulletin may be directed to Cheryl Subler, CCAO Senior Policy Analyst, at csubler@ccao.org or at CCAO's toll free number 1-888-757-1904, or to the Auditor of State's Legal Division at (614) 752-8683.

¹The one exception to this would be if the county treasurer, or county auditor or the commissioner not elected or re-elected in November 2000, were to leave office and a new treasurer, auditor or commissioner were appointed, then it would appear that the new treasurer's, auditor's or commissioner's term would have commenced after the effective date of HB 712, thus making them eligible for not only the pay increases in HB 712, but also the eight (8) class population-based schedule instead of the former fourteen (14) class population schedule.

CAB

COUNTY ADVISORY BULLETIN

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Bulletin 2005-07

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2006 PAY TABLES FOR COUNTY OFFICIALS

3 percent increase in 2006

INTRODUCTION

House Bill 712, effective December 8, 2000, provided salary increases to county elected officials along with statewide officeholders, lawmakers, judges, boards of elections officials, and township officials. The purpose of this CAB is to specifically provide salary tables for 2006.

For county elected officials, House Bill 712 provided cost of living increases in subsequent years based on the Consumer Price Index (CPI) through September of the preceding calendar year capped at 3 percent. In October 2005, the United States Bureau of Labor Statistics published the CPI at 5.2 percent. As a result, county elected officials will receive a 3 percent salary increase in 2006.

This CAB will explain the cost of living increase provision contained in House Bill 712; highlight the various county elected officials' salary provisions; and provide salary tables for calendar year 2006.

GENERAL CONCEPTS OF HOUSE BILL 712 & COMPENSATION IN 2006

Cost of Living Increases. House Bill 712 provided cost of living increases for most county elected officials beginning in 2002 through 2008. The cost of living increases are based on the percentage increase of the Consumer Price Index (CPI) capped at 3 percent. The CPI is determined over the twelve-month period that ends on September 30 of the immediately preceding calendar year, rounded to the nearest one-tenth of one per cent. Since the federal Department of Labor reports more than one CPI, the Ohio Revised code provides that the "consumer price index" to be used is the index for U.S. city average for urban wage earners and clerical workers: all items, 1982-1984=100.

Practically speaking, this means:

1. Cost of living increases will be less than 3 percent if the CPI is lower. But, if the CPI is more than 3 percent, the annual increase can only be 3 percent.
2. Annual salaries through 2008 cannot be calculated prior to October of the preceding

calendar year. Since the CPI is based on the twelve month period that ends on September 30 of the immediately preceding calendar year, calculations will have to be done on a yearly basis.

The CPI for salary purposes was 1.3 percent for calendar year 2003, 2.3 percent for calendar year 2004, 2.4 percent for calendar year 2005, and 5.2 percent for calendar year 2006. However, in 2006, county elected officials' pay raise will be maxed-out at 3 percent.

Calculating Elected Officials Salaries on a Calendar Basis. The compensation of all county elected officials contained in the Revised Code is on a calendar year basis. When a term of office is only part of a calendar year, the calendar year salary is pro-rated. (Attorney General Opinion 90-023)

NON-JUDICIAL OFFICEHOLDERS COMPENSATION

Commissioners (ORC 325.10 & 325.18)

Table 1 reflects the 2005 & 2006 salaries for commissioners.

Auditors (ORC 325.03, 325.18 & 5731.41)

Table 2 provides the salaries for auditors in 2005 and 2006.

In addition to the salary provided in Table 2, auditors are to receive 8 cents per capita for each full thousand of population for the first 20,000 and 2 cents per capita for each full thousand over 20,000 not less than \$1,200 nor more than \$3,000, which is paid from the undivided estate tax fund pursuant to Ohio Revised Code Section 5731.41.

Clerks of Courts (ORC 325.08, 325.18 & 2303.03)

Tables 3 and 4 provide the salaries for clerks of courts for 2005 & 2006, respectively. These tables show the county paid and state paid portions of their salaries. The state-paid compensation, which is equal to one-eighth of their county paid compensation, compensates the clerks for serving as the clerk of the court of appeals. The county should appropriate the amount listed under the county paid salary column. The state portion is paid directly by the state to the clerk.

In addition, clerks serving as municipal court clerks and/or county court clerks receive additional compensation. Such clerks are entitled to an additional 25 percent of county paid compensation for serving as either the clerk of the municipal or county court, pursuant to Ohio Revised Code Sections 1901.31 and 1907.20.

Coroners (ORC 325.15 & 325.18)

Table 5 provides the salaries for all coroners in counties with 175,000 or less in population or those coroners in the larger counties who have chosen to maintain a private medical practice. Table 6 shows the salaries for coroners in counties with a population of more than 175,000 who do not have a private medicine practice, who thereby receive higher compensation.

Section 325.15 also provides the process for a coroner to select compensation under the pay schedule for "Coroners Without a Private Practice." A coroner in a county with a population of

175,001 or more must elect to engage or not to engage in the private practice of medicine before the commencement of each new term of office. A coroner in such a county who engages in the private practice of medicine but who intends not to engage in the private practice of medicine during the coroner's next term of office must notify the board of county commissioners before taking office again.

Engineers (ORC 325.14 & 325.18)

Table 7 shows the salaries for engineers who maintain a private practice. Table 8 gives the salaries for engineers without a private practice, who thereby receive higher compensation.

A county engineer may elect to engage or not to engage in the private practice of engineering or surveying before the commencement of each new term of office. A county engineer who elected not to engage in the private practice of engineering or surveying may, for a period of six months after taking office, engage in the private practice of engineering or surveying for the purpose of concluding the affairs of private practice without any diminution of salary.

In addition to the salary prescribed by Tables 7 and 8 of this bulletin, a county engineer may also receive compensation when he/she performs services as the county sanitary engineer. Plus, House Bill 549, which became effective on March 12, 2001, enables county engineers to receive additional compensation if they are selected as the county drainage engineer. (ORC 315.14 and 6117.01)

Prosecuting Attorneys (ORC 325.11, 325.111 & 325.18)

Table 9 provides the salaries of prosecutors who have a private practice. Tables 10 and 11 show the salaries for prosecutors without a private practice, who thereby receive higher compensation.

Tables 10 and 11 show that counties with 70,000 or less in population receive partial reimbursement from the state if the prosecutor does not have a private practice. The state is to reimburse counties 40 percent of the difference between the "without a private practice" and "with a private practice" entitlement each year. In addition, the state is to pay its relative share of employer PERS contributions and employer Medicare Part A contributions. However, reimbursement is conditional upon adequate state appropriations being made for this purpose. This "condition" of adequate state funding being appropriated was a provision added to House Bill 712 when changes were made to the bill in the Ohio House Finance Committee. As a result, counties will be responsible for a portion of the state's share if the General Assembly does not appropriate adequate funds for the prosecuting attorneys compensation. House Bill 712 also changed the state reimbursement schedule. The state, through the Attorney General, is to reimburse counties no later than March 15 and September 15 each year. Prior to House Bill 712, reimbursements were paid in equal monthly installments.

A prosecuting attorney may elect to engage or not to engage in the private practice of law before the commencement of each new term of office. A prosecuting attorney is not to engage in the private practice of law unless before taking office the prosecuting attorney notifies the board of county commissioners of his/her intention to engage in the private practice of law. In addition, a prosecuting attorney who engages in the private practice of law who intends not to engage in the private practice of law during the prosecuting attorney's next term of office must so notify the board of county commissioners. A prosecuting attorney who elects not to engage in the private practice of law may, for a period of six months after taking office, engage in the private practice of law for the purpose of concluding the affairs of private practice of law without any diminution

of salary as provided in the tables of this bulletin.

Recorders (ORC 325.09 & 325.18)

Table 12 provides the recorders' salaries for calendar years 2005 and 2006.

Sheriffs (ORC 325.06 & 325.18)

Table 13 and 14 reveal the sheriffs' salaries for calendar year 2005 and 2006, respectively. Counties are reimbursed by the state for one-eighth of the county paid portion of the sheriffs' salaries. In addition, the state is to pay its relative share of employer PERS contributions and employer Medicare Part A contributions. Just like the prosecutors' section, the state payment is conditional upon adequate appropriations being made. However, unlike the prosecutors' section, sheriffs will only receive the additional compensation if "adequate funds have been appropriated by the General Assembly"; the county is not on the hook to make up the state's share if the General Assembly did not appropriate enough money.

House Bill 712 changed the state reimbursement schedule. The state, through the Attorney General, is to reimburse counties no later than March 15th and September 15th each year. Prior to House Bill 712, reimbursements were to be paid no later than the 15th of March, June, September, and December. Counties should appropriate the total salary for sheriffs, assuming that adequate funds have been appropriated by the General Assembly, and counties will be fully reimbursed by the state.

Treasurers (ORC 325.04 & 325.18)

Table 15 provides the treasurers' salaries for calendar years 2005 and 2006.

APPROPRIATIONS TO FURTHERANCE OF JUSTICE FUNDS (FOJ)

Sheriff's FOJ Fund (ORC 325.071)

The Sheriff's FOJ Fund must be appropriated at the rate of 50 percent of the sheriff's county-paid salary. Language was included in House Bill 94 in 2001 providing that the appropriation is based only on the county paid portion of the sheriff's salary and does not include the state paid portion.

Prosecutors' FOJ Fund (ORC 325.12)

Appropriation to the Prosecutors' FOJ Fund is at the rate of 50 percent of the total salary the prosecutor receives irrespective of which payment option the prosecutor selects in counties over 70,000 population. In counties where the population is 70,000 or less, appropriations to the FOJ Fund are at the rate of 50 percent of the compensation provided in the pay schedule "with private practice." In these counties, even if the prosecutor is being paid under the "without private practice" schedule, appropriations to the FOJ Fund are still on the basis of the "with private practice" pay schedule.

JUDICIAL OFFICEHOLDERS COMPENSATION

House Bill 712 provided judges cost of living increases from 2002 through 2008. These cost of living increases are the same as granted to the non-judicial county elected officials, which is the CPI-W capped at 3 percent. Therefore, the increase provided to judges in calendar year 2006 is

3 percent. This increase is calculated based on the total salary payable to the judge, exclusive of any amounts payable pursuant to ORC 1901.11(B)(2), 1907.16(C), or 1907.17, but added only to the state's portion of the judge's compensation.

Common Pleas Judges (ORC 141.04 and 141.05)

The compensation of common pleas judges is paid by both the state and the county. The county pays an amount equal to 18 cents per capita. This dollar amount may not be less than \$3,500 nor more than \$14,000 based on the official 2000 Census. See Table 16.

Full-time Municipal Court Judges and Part-time Municipal Court Judges Who Serve a Territory Exceeding 50,000 Population (ORC 141.04 and 1901.11)

The compensation for full-time municipal court judges and those part-time municipal court judges who serve in a territory with a population exceeding 50,000, is financed by the state and local funding authorities. The local share is a fixed amount equal to \$61,750. See Table 17.

Part-time Municipal Court Judges Except Those Part-time Judges Who Serve a Territory Exceeding 50,000 Population (ORC 141.04 and 1901.11)

The compensation for part-time municipal court judges, other than those who serve in a territory with a population exceeding 50,000 is financed by the state and local funding authorities. The amount of the local share is fixed at \$35,500. See Table 17.

County Court Judges (ORC 141.04 and 1907.16)

Again, the compensation of county court judges is covered by the state and the county. The county's fixed share is \$35,500. See Table 17.

Additional Compensation for Judges Designated as a Presiding and Administrative Judges in a Municipal Court or County Courts (ORC references are included in Table 18)
See Table 18.

County Optional Compensation for County Court Judges (ORC 1907.17)

In addition to the compensation of county court judges specified in Tables 17 and 18, the law authorizes the Board of County Commissioners to permissively supplement the salary of county court judges by an amount not to exceed \$2,000 in any year. It should be noted that this provision must be uniformly applied in counties with more than one county court judge. Also, this additional compensation can not be reduced during the term of office of any county court judge, but apparently can be changed at the beginning of a new term of office.

BOARDS OF ELECTIONS MEMBERS (ORC 3501.12)

Members of the county board of elections were provided a cost of living increase in House Bill 712 that was atypical of the other elected officials. Unlike the other officials' whose cost of living increase was tied to the Consumer Price Index and went through 2008, the board of elections members were granted 3 percent increases in 2001, 2002, and 2003. Table 19 shows those increases. At this time, the Ohio Revised Code does not provide any statutory increase in salary for calendar year 2004 or thereafter.

ACKNOWLEDGMENTS

This County Advisory Bulletin was prepared by CCAO. We requested comments from the various associations that represent county elected officials and judges, and many provided valuable comments which improved the bulletin. The Bulletin was also reviewed by the State Auditor's office, which provided comments. Any errors, however, are the responsibility of CCAO alone. Questions or comments should be directed to Cheryl Subler, Senior Policy Analyst, csubler@ccao.org who was primarily responsible for the preparation of this CAB.

Table 1

Commissioners

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$34,688	\$35,729
2	20,001-35,000	37,970	39,109
3	35,001-55,000	41,251	42,489
4	55,001-95,000	51,562	53,109
5	95,001-200,000	60,938	62,766
6	200,001-400,000	71,483	73,627
7	400,001-1 million	80,861	83,287
8	over 1 million	85,875	88,451

Table 2

Auditors*

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$49,618	\$51,107
2	20,001-35,000	52,242	53,809
3	35,001-55,000	53,984	55,604
4	55,001-95,000	63,510	65,415
5	95,001-200,000	71,277	73,415
6	200,001-400,000	79,965	82,364
7	400,001-1 million	84,737	87,279
8	over 1 million	87,279	89,897

*Auditors also receive 8 cents per capita for each full thousand of population for the first 20,000 and 2 cents per capita for each full thousand over 20,000 not less than \$1,200 nor more than \$3,000, which is paid from the undivided estate tax fund pursuant to Ohio Revised Code Section 5731.41

**Table 3
Clerks of Courts***

Class	Population Range	2005 Calendar Year County Paid Salary**	2005 Calendar Year State Paid Salary***	2005 Calendar Year Total Salary
1	1-20,000	\$36,362	\$4,545	\$40,907
2	20,001-35,000	39,162	4,895	44,057
3	35,001-55,000	41,957	5,245	47,202
4	55,001-95,000	49,417	6,177	55,594
5	95,001-200,000	56,877	7,110	63,987
6	200,001-400,000	63,403	7,925	71,328
7	400,001-1 million	68,064	8,508	76,572
8	over 1 million	70,447	8,806	79,253

**Table 4
Clerks of Courts***

Class	Population Range	2006 Calendar Year County Paid Salary**	2006 Calendar Year State Paid Salary***	2006 Calendar Year Total Salary
1	1-20,000	\$37,453	\$4,682	\$42,135
2	20,001-35,000	40,337	5,042	45,379
3	35,001-55,000	43,216	5,402	48,618
4	55,001-95,000	50,900	6,363	57,263
5	95,001-200,000	58,583	7,323	65,906
6	200,001-400,000	65,305	8,163	73,468
7	400,001-1 million	70,106	8,763	78,869
8	over 1 million	72,560	9,070	81,630

* Clerks serving as Municipal Court Clerks and/or County Court Clerks receive additional compensation. Such clerks are entitled to an additional 25 percent of county paid compensation for serving as either the clerk of the municipal or county court.

** This amount should be appropriated by the county

*** This amount is to be paid directly by the state

Table 5

Coroners with a Private Practice

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$20,514	\$21,129
2	20,001-35,000	23,311	24,010
3	35,001-55,000	26,106	26,889
4	55,001-95,000	38,228	39,375
5	95,001-200,000	47,554	48,981
6	200,001-400,000	58,741	60,503
7	400,001-1 million	66,200	68,186
8	over 1 million	70,173	72,278

Table 6

Coroners without a Private Practice

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	NA	NA
2	20,001-35,000	NA	NA
3	35,001-55,000	NA	NA
4	55,001-95,000	NA	NA
5*	95,001-175,000	NA	NA
5*	175,001-200,000	107,448	110,671
6	200,001-400,000	107,448	110,671
7	400,001-1 million	110,056	113,358
8	over 1 million	112,665	116,045

* New Class 5 for Coroners without a Private Practice begins with a population of 175,001, unlike Class 5 for the other county elected officials. This difference is due to the fact that the law only allows coroners in counties with a population of 175,001 or more to have the option to earn a higher salary in exchange for forgoing a private practice.

Table 7

Engineers with a Private Practice

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$52,588	\$54,166
2	20,001-35,000	54,826	56,471
3	35,001-55,000	57,063	58,775
4	55,001-95,000	61,538	63,384
5	95,001-200,000	66,200	68,186
6	200,001-400,000	69,930	72,028
7	400,001-1 million	74,591	76,829
8	over 1 million	77,500	79,825

Table 8

Engineers without a Private Practice

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$74,788	\$77,032
2	20,001-35,000	77,025	79,336
3	35,001-55,000	79,263	81,641
4	55,001-95,000	83,740	86,252
5	95,001-200,000	88,400	91,052
6	200,001-400,000	92,130	94,894
7	400,001-1 million	96,792	99,696
8	over 1 million	99,696	102,687

Table 9

Prosecutors with a Private Practice

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$50,349	\$51,859
2	20,001-35,000	52,215	53,781
3	35,001-55,000	54,079	55,701
4	55,001-95,000	60,140	61,944
5	95,001-200,000	65,269	67,227
6	200,001-400,000	72,729	74,911
7	400,001-1 million	77,388	79,710
8	over 1 million	80,251	82,659

Table 10

Prosecutors without Private Practice

Class Number	Population Range	2005 Calendar Year County Paid Salary	2005 Calendar Year State Reimbursed Salary*	2005 Calendar Year Total Salary**
1	1-20,000	\$71,716	\$14,244	\$85,960
2	20,001-35,000	78,909	17,796	96,705
3	35,001-55,000	79,655	17,050	96,705
4***	55,001-70,000	88,525	18,923	107,448
4***	70,001-95,000	107,448	NA	107,448
5	95,001-200,000	107,448	NA	107,448
6	200,001-400,000	107,448	NA	107,448
7	400,001-1 million	110,056	NA	110,056
8	over 1 million	112,665	NA	112,665

* This amount is reimbursed to the county if adequate funds have been appropriated by the General Assembly

** This amount should be appropriated by the county

*** Class 4 is broken into two categories for the prosecutors without private practice simply to show the reimbursement provided by the state for counties with a population of less than 70,001.

Table 11

Prosecutors without Private Practice

Class Number	Population Range	2006 Calendar Year County Paid Salary	2006 Calendar Year State Reimbursed Salary*	2006 Calendar Year Total Salary**
1	1-20,000	\$73,867	\$14,672	\$88,539
2	20,001-35,000	81,276	18,330	99,606
3	35,001-55,000	82,044	17,562	99,606
4***	55,001-70,000	91,180	19,491	110,671
4***	70,001-95,000	110,671	NA	110,671
5	95,001-200,000	110,671	NA	110,671
6	200,001-400,000	110,671	NA	110,671
7	400,001-1 million	113,358	NA	113,358
8	over 1 million	116,045	NA	116,045

* This amount is reimbursed to the county if adequate funds have been appropriated by the General Assembly

** This amount should be appropriated by the county

*** Class 4 is broken into two categories for the prosecutors without private practice simply to show the reimbursement provided by the state for counties with a population of less than 70,001.

Table 12

Recorders

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$35,431	\$36,494
2	20,001-35,000	38,228	39,375
3	35,001-55,000	40,093	41,296
4	55,001-95,000	46,621	48,020
5	95,001-200,000	53,148	54,742
6	200,001-400,000	60,605	62,423
7	400,001-1 million	66,200	68,186
8	over 1 million	69,113	71,186

**Table 13
Sheriffs**

Class Number	Population Range	2005 Calendar Year County Paid Salary	2005 Calendar Year State Reimbursed Salary*	2005 Calendar Year Total Salary**
1	1-20,000	\$44,482	\$5,560	\$50,042
2	20,001-35,000	47,279	5,910	53,189
3	35,001-55,000	49,146	6,143	55,289
4	55,001-95,000	57,263	7,158	64,421
5	95,001-200,000	69,770	8,721	78,491
6	200,001-400,000	78,163	9,770	87,933
7	400,001-1 million	82,826	10,353	93,179
8	over 1 million	85,226	10,653	95,879

**Table 14
Sheriffs**

Class Number	Population Range	2006 Calendar Year County Paid Salary	2006 Calendar Year State Reimbursed Salary*	2006 Calendar Year Total Salary**
1	1-20,000	\$45,816	\$5,727	\$51,543
2	20,001-35,000	48,697	6,087	54,784
3	35,001-55,000	50,620	6,328	56,948
4	55,001-95,000	58,981	7,373	66,354
5	95,001-200,000	71,863	8,983	80,846
6	200,001-400,000	80,508	10,064	90,572
7	400,001-1 million	85,311	10,664	95,975
8	over 1 million	87,783	10,973	98,756

* This amount is reimbursed to the county if adequate funds have been appropriated by the General Assembly. Note: Sheriffs' will not receive this full amount if adequate funds have not been appropriated by the General Assembly.

** This amount should be appropriated by the county.

Table 15

Treasurers

Class Number	Population Range	2005 Calendar Year Salary	2006 Calendar Year Salary
1	1-20,000	\$36,362	\$37,453
2	20,001-35,000	39,162	40,337
3	35,001-55,000	41,957	43,216
4	55,001-95,000	49,417	50,900
5	95,001-200,000	56,877	58,583
6	200,001-400,000	63,403	65,305
7	400,001-1 million	68,064	70,106
8	over 1 million	70,447	72,560

Table 16

Salaries of Common Pleas Judges

Counties with Populations of 77,778 or More

Source of Funding	2005	2006
County	\$14,000	\$14,000
State	98,700	102,100
Total	112,700	116,100

Counties with Populations from 77,777 - 19,445

Source of Funding	2005	2006
County	18 cents per capita \$_____	18 cents per capita \$_____
State	Total Salary minus County Paid _____	Total Salary minus County Paid _____
Total	112,700	116,100

Counties with Populations of 19,444 or Less

Source of Funding	2005	2006
County	\$3,500	\$3,500
State	109,200	112,600
Total	112,700	116,100

Table 17

Municipal & County Court Judges

Full-time Municipal Judges and Part-time Municipal Judges Who Serve in a Territory Exceeding 50,000 Population

Source of Funding	2005	2006
Local	\$61,750	\$61,750
State	44,200	47,400
Total	105,950	109,150

Note: Municipalities generally pay 60%, counties 40%, except in county operated municipal courts where county pays 100%

Part-time Municipal Judges Except Those Part-time Municipal Court Judges Who Serve in a Territory Exceeding 50,000 Population

Source of Funding	2005	2006
Local	\$35,500	\$35,500
State	25,450	27,300
Total	60,950	62,800

Note: Municipalities generally pay 60%, counties 40%, except in county operated municipal courts where county pays 100%

County Court Judges

Source of Funding	2005	2006
County	\$35,500	\$35,500
State	25,450	27,300
Total	60,950	62,800

Note: Excludes county permissive payments pursuant to ORC 1907.17

Table 18

**Additional Compensation for Presiding & Administrative Judges
in
Municipal & County Courts**

Municipal Courts

Number of Judges	Designation	ORC Reference	Additional Annual Compensation	ORC Reference	Source of Payment
One Judge	Specified in statute	1901.09 (A)	\$1,500	1901.11 (B) (2)	Local Funding Authorities
Two or More Judges	Elected or designated as provided in the Rules of Superintendence for the Courts of Ohio	1901.09 (B)			

Note: These amounts are generally paid 40% by the county; 60% by the municipality. If the court is a county operated municipal court, the county pays 100% of the additional compensation.

County Courts

Number of Judges	Designation	ORC Reference	Additional Annual Compensation	ORC Reference	Source of Payment
One Judge	Specified in statute	1907.131 (A)	\$1,500	1907.16 (C)	County
Two or More Judges	Elected or designated as provided in the Rules of Superintendence for the Courts of Ohio	1907.131 (B)			

Table 19

Boards of Elections Members

Base	2002	2003	2004	2005	2006
For each full 1,000 population of first 100,000	\$90.18	\$92.89	\$92.89	\$92.89	\$92.89
For each full 1,000 population of second 100,000	42.97	44.26	44.26	44.26	44.26
For each full 1,000 population of third 100,000	23.34	24.04	24.04	24.04	24.04
For each full 1,000 population over 300,000	7.16	7.37	7.37	7.37	7.37

Maximum & Minimum Compensation of Members

	2002	2003	2004	2005	2006
Minimum Compensation	\$3,580	\$3,687	\$3,687	\$3,687	\$3,687
Maximum Compensation	21,218	21,855	21,855	21,855	21,855

Excerpt From Auditor of State Bulletin 1996-014

**TABLE 11
STATUTORY REFERENCES FOR JUDICIAL SALARIES**

COMMON PLEAS JUDGES

TYPE OF COMPENSATION	ORC SECTION
State paid base amount	141.04(A)(4)
State paid supplement to common pleas judges in counties under 60,000 population not having a separate probate division	141.06
County paid per capita amount	141.05

FULL-TIME MUNICIPAL COURT JUDGES AND PART-TIME MUNICIPAL JUDGES SERVING POPULATIONS MORE THAN 50,000

TYPE OF COMPENSATION	ORC SECTION
State paid base amount	141.04(A)(5)
Local paid base amount	1901.11(B)(1)(a)
Local per capita amount	1901.11(B)(1)(a)
Local paid supplement for presiding judge who is also an administrative judge	1901.11(B)(3)
Cap on locally paid portion of salaries	1901.11(B)(2)
Division of locally paid cost between county and municipalities	1901.11(C)

PART-TIME MUNICIPAL COURT JUDGES

TYPE OF COMPENSATION	ORC SECTION
Locally paid base amount	1901.11(A)(2)
Locally paid per capita amount	1901.11(A)(1)
Local paid supplement for presiding judge who is also an administrative judge	1901.11(B)(3)

COUNTY COURT JUDGES

TYPE OF COMPENSATION	ORC SECTION
County paid base	1907.16(A)(2)
County paid per capita amount	1907.16(A)(1)
Optional county payments	1907.17

2006 TOWNSHIP COMPENSATION CHARTS

Pursuant to Ohio Revised Code Sections 505.24 and 507.09, township trustees' and clerks' salaries are based on the annual budget of the township. Cost of living increases are determined by the lesser of two numbers: 3% or the Consumer Price Index (CPI) rating for the previous year. The CPI for 2005, per the United States Department of Labor, is 5.2%. If you have any questions about the compensation charts, please do not hesitate to contact Natalie Cosgrove, Governmental Affairs Assistant, at the State Association office.

CLERK COMPENSATION --ANNUAL SALARY

Township Budget	Pay for 2004 (2.3% increase)	Pay for 2005 (2.4% increase)	Pay for 2006 (3% increase)
\$50,000 or less	\$4,082	\$4,180	\$4,306
\$50,001 –100,000	\$6,414	\$6,568	\$6,766
\$100,001 –250,000	\$8,981	\$9,197	\$9,472
\$250,001 –500,000	\$11,548	\$11,825	\$12,179
\$500,001 –750,000	\$12,830	\$13,138	\$13,532
\$750,001 –1,500,000	\$15,396	\$15,766	\$16,238
\$1,500,001 –3,500,000	\$17,962	\$18,393	\$18,945
\$3,500,001 –6,000,000	\$19,245	\$19,707	\$20,298
\$6,000,001 –10,000,000	\$22,087	\$22,617	\$23,296
Greater than \$10,000,000	\$25,553	\$26,166	\$26,951

TRUSTEE COMPENSATION AMOUNT PER DAY, NOT TO EXCEED 200 DAYS PER YEAR IF PAID SALARY, 200 TIMES DAILY RATE, PAID MONTHLY

Township Budget	Pay for 2004 (2.3% increase)	Pay for 2005 (2.4% increase)	Pay for 2006 (3% increase)
\$50,000 or less	\$23.33	\$23.89	\$24.60
\$50,001 –100,000	\$27.99	\$28.66	\$29.52
\$100,001 –250,000	\$33.25	\$34.05	\$35.06
\$250,001 –500,000	\$38.49	\$39.41	\$40.60
\$500,001 –750,000	\$40.82	\$41.80	\$43.06
\$750,001 –1,500,000	\$46.66	\$47.78	\$49.21
\$1,500,001 –3,500,000	\$51.32	\$52.55	\$54.13
\$3,500,001 –6,000,000	\$55.98	\$57.32	\$59.05
\$6,000,001 –10,000,000	\$72.54	\$74.28	\$76.51
Greater than \$10,000,000	\$93.27	\$95.51	\$98.37

For more information regarding township trustee and clerk compensation, see pages A-12, A-24, and A-25 from the Ohio Township Handbook located at the following website:

www.auditor.state.oh.us/LocalGovernment/manualsHandbooks/ohio_township_handbook.pdf

APPENDIX F

Legal Matrices

This appendix contains three matrices. Each matrix matches the applicability of OCS steps to various entity types. The information in the matrices does not necessarily encompass every item requiring testing for these entities. Additionally, when footnotes in the matrices reference specific sections of the Ohio Rev. Code, you should read those sections when planning and/or conducting the audit.

Matrix 1 lists the following entities:

- Joint mental health districts
- Joint juvenile detention facilities
- Regional planning commissions
- Solid waste districts
- Union cemeteries
- Union cemetery districts
- Airport authorities
- Family and children first councils
- Soil and water districts
- Educational service centers
- Conservancy districts

Matrix 2 lists the following entities:

- Libraries
- Regional water & sewer districts
- General health districts
- Joint recreation districts
- Park districts
- Community and technical colleges
- State colleges and universities
- Joint ambulance districts

Matrix 3 lists the following entities:

- County
- Township
- City
- Village
- Public school districts
- Community schools

Matrix 1

Chapter 1: Budgetary & Certain Related Requirements

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
	General Budgetary Requirements				1				2	1		1
1.	5705.28 Tax budget	✓	✓		✓		✓			✓		✓
2.	5705.281 Waiver of tax budget	✓	✓		✓		✓			✓		✓
3.	5705.34 Certify tax levies	✓	✓		✓		✓			✓		✓
4.	5705.36 Cert. of revenue	✓	✓		✓		✓			✓		✓
5.	5705.36 Amended cert. of est. resources	✓	✓		✓		✓			✓		✓
6.	5705.38 Annual appropriation measure	✓	✓		✓		✓			✓		✓
7.	5705.39 Limitation of appropriations	✓	✓		✓		✓			✓		✓
8.	5705.40 Amending or supplementing appropriations	✓	✓		✓		✓			✓		✓
9.	5705.41(A), (B), (C) and (D) Restrictions on appropriating/expending money	✓	✓		✓		✓			✓		✓
10.	5705.41(D) "Blanket" fiscal officer certificates	✓	✓		✓		✓			✓		✓

¹ If these entities levy taxes, the checkmarks noted above apply. However, often they do not levy taxes. When they do not levy taxes, RC Section 5705.28 (B)(2) requires a comparable, but somewhat streamlined budget process. RC 5705.28(B)(2) requires entities to follow RC 5705.36, .38, .40, .41, .43, .44, and .45. However, these entities need not file documents they prepare under sections with the county auditor or county budget commission. Finally, while RC 5705.39 does not apply, RC 5705.28(B)(2)(c) prohibits appropriations from exceeding estimated revenue (i.e. receipts + beginning unencumbered cash).

² RC 5705 does not apply. However, RC 121.37(B)(4) requires the council to file an annual budget with its administrative agent.

Matrix 1

Chapter 1: Budgetary & Certain Related Requirements (continued)

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
	General Budgetary Requirements											
11.	9.34 Establish different fiscal year-ends for entities other than schools	✓	✓		✓		✓			✓		✓
20.	5705.02 Ten Mill limitations	✓	✓		✓		✓			✓		✓
21.	5705.09 Establish funds	✓	✓		✓		✓			✓		✓
22.	5705.10 Distribution of levy revenue	✓	✓		✓		✓			✓		✓
23.	5705.12 Approval to establish funds	✓	✓		✓		✓			✓		✓
24.	5705.14-.16 Transfer funds	✓	✓		✓		✓			✓		✓
25.	Various 5705 Sections & AOS Bulletin 97-003 – Advances ³	✓	✓		✓		✓			✓		✓
6.	5705.13 Reserve Accounts & Funds	✓	✓		✓		✓			✓		✓

³ Bulletin 97-03 applies to entities subject to RC 5705. This Bulletin describes the AOS' position regarding using transfers to advance / loan money from one fund to another.

Matrix 1

Chapter 2: Contracts and Expenditures

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Conservancy District
	General											
23.	153.50, 153.51, 153.52 Bids and contracts for buildings/structures ⁴							✓		✓		✓
24.	4115.04, 4115.05 Prevailing wage		✓	✓	✓	✓	✓	✓		✓	✓	✓
25.	9.314 Reverse Internet auction in lieu of sealed bids	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
27.	9.24 Unresolved Findings for Recovery	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Not in OCS	Other bidding requirements⁵											
	340.04 Jt. Mental Health District ⁶	✓										
	713.23 Regional Planning Comm. ⁷			✓								
	308.13 Airport competitive bidding							✓				
	121.37(B)(4) FCFC competitive bidding ⁸								✓			
	1515.08(H) Soil & Water District competitive bidding									✓		
	6101.16 Conservancy district competitive bidding											✓

⁴ These sections apply if the entity is required to bid in the circumstances listed under footnote 7, **Other bidding requirements**.

⁵ The OCS does not include descriptions or recommended tests for the **Other bidding requirements** listed, but auditors should refer to these RC sections and test them if material procurement occurred.

⁶ For joint mental health districts, bidding is not required, but the board should establish a contract review process. See ORC § 340.03(A)(6)(a).

⁷ When a regional planning commission enters into a purchase contract on behalf of a political subdivision, it shall follow the competitive bidding procedures in ORC § 307.86-.92. (OCS step 2-5 includes a summary of RC 307.86.)

⁸ Agreements and contracts a council's administrative agent enters into for the purchase of family and child welfare or child protection services or other social or human services for families and children are exempt from the competitive bidding requirements of § 307.86, if the FCFC council approved them. Please see § 121.37(B)(4)(a) for further details.

Matrix 1

Chapter 3: Debt⁹

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
1.	133.22 Leg. auth. anticip. securities		✓		✓							✓
1.	133.24 Tax anticipation notes		✓		✓							✓
1.	5705.03 Auth. to levy taxes ¹⁰	✓	✓		✓		✓					✓
1.	5705.05 Gen. levy for current exp.	✓	✓				✓					
1.	5705.09 Est. of funds	✓	✓				✓					
1.	5705.10 Disp. and use of tax rev.	✓	✓				✓					
1.	321.34 Advance payments to local authorities ¹¹											
2.	133.10 Anticipation securities		✓		✓							✓
4.	17 CFR § 240.15c2-12 Municipal securities ¹²	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

⁹ If the entity has a specific Ohio Rev. Code Section that refers to its ability to issue bonds, notes or anticipatory securities, that section takes precedence if there was a conflict between it and the general debt provisions in Chapter 133.

¹⁰ For solid waste districts and conservancy districts, the only parts of ORC 5705.03 that apply are those sentences referring to a “taxing unit.”

¹¹ If any entity receives money from that county and the county is holding this money on behalf of the entity, the entity may ask for an advance.

¹² The term *Municipal Security* refers to any local government security, not just those municipalities issue, pursuant to 15 U.S.C. § 78c(a)(29).

Matrix 1

Chapter 4: Accounting and Reporting

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
	Accounting & Reporting Chapter											
1.	OAC 117-2-03(B) GAAP Financial Reporting										✓	
5.	OAC 117-2-02 Required accounting records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Note: ESCs are the only entities on this matrix required to follow GAAP. However for all entities listed on this matrix, auditors and financial statement preparers should read the guidance in the introduction to Chapter 4 regarding AOS Bulletin 2005-02.

Matrix 1

Chapter 5: Deposits and Investments

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
	Subdivisions Other Than Counties											
1 through 3	135.14 Eligible investments of interim monies	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
4.	135.18 & 135.181 Collateral for public deposits	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
5.	135.21 Crediting invest. earnings	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
5.	135.351 Crediting interest	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
5.	5705.10 Disposition of tax revenues and proceeds	✓	✓				✓					
6. Through 9.	(Airports follow county investing requirements per RC 308.12.)							✓				

Matrix 1

Chapter 6: Other Potentially Direct and Material Laws and Regulations

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
1.	9.833 Health care self-insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2.	2744.081 Liability self-insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Matrix 1

Chapter7: Checklist for Other Laws and Regulations

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conser-vancy District
	Contracting & Purchasing											
2.	Various – use of government credit/ purchasing cards, cell phones, government-owned equipment, etc.)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3.	Various – travel reimbursements (including “frequent flyer miles” accruals/ usage)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Accounting and Reporting											
5.	117.38 Filing of financial reports	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
6.	9.38 Deposits of public money	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
7.	121.22 Meeting of public bodies	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
8.	149.43 Availability of public records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Payroll Taxes											
25.	Federal, state and local taxes	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
26.	Employees’ retirement system	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Deposits and Investments											
31.	135.03, .32, etc. designating depositories etc.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
32.	135.22, 321.46 investment education	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Matrix 1

Chapter 7: Checklist for Other Laws and Regulations (continued)

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Union Cemetery	Union Cemetery District	Airport Authority	FCFCC	Soil and Water District	ESC	Conservancy District
	Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics											
33.	1979 Op. Atty Gen. No. 79-111 Prohibitions from holding office	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
33.	Various fraud, abuse and illegal act provisions ¹³											
	Prohibited Political Activity											
34.	Various ¹⁶											
	Bonding Requirements											
35.	2151.70 Jt. Juv. Detention Facility		✓									
35.	759.36 Union Cemetery District ¹⁴						✓					
35.	308.12 Airport Authority ¹⁵							✓				
35.	1515.07 Soil & Water District									✓		
35.	6101.12 Conservancy District ¹⁶											✓
	Other Special Entity Requirements											
43.	121.37(B)(1) Establishment and membership on Family and Children First Councils								✓			
44.	121.37(B)(4) Administrative Agent								✓			
45.	4767.03 Registering cemeteries with the Department of Commerce					✓	✓					

¹³ Some provisions of these OCS Sections have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

¹⁴ The clerk-treasurer shall be bonded in an amount equal to or greater than the cemetery fund, but not less than \$1,000.

¹⁵ The secretary-treasurer shall be bonded in an amount required by the board.

¹⁶ For Conservancy Districts, the board may require any officer or employee to give bond and the board may determine the amount.

Matrix 2

Chapter 1: Budgetary & Certain Related Requirements

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
	General Budgetary Requirements			17	18		18					18	19
1.	5705.28 Tax budget			✓		✓	✓	✓		✓	✓	✓	
2.	5705.281 Waive tax budget			✓		✓	✓	✓		✓	✓	✓	
3.	5705.34 Certify tax levies			✓		✓	✓	✓		✓	✓	✓	
4.	5705.36 Cert. of revenue			✓		✓	✓	✓		✓	✓	✓	
5.	5705.36 Amended cert. est res.			✓		✓	✓	✓		✓	✓	✓	
6.	5705.38 Annual appropriations	20		✓		✓	✓	✓		✓	✓	✓	

¹⁷ If these entities levy taxes, the checkmarks apply. However, often they do not levy taxes. When they do not levy taxes, RC Section 5705.28 (B)(2) requires a comparable, but somewhat streamlined budget process. RC 5705.28(B)(2) requires entities to follow RC 5705.36, .38, .40, .41, .43, .44, and .45. However, documents prepared in accordance with these sections need not be filed with the county auditor or county budget commission. Also, while RC 5705.39 does not apply, RC 5705.28(B)(2)(c) prohibits appropriations from exceeding estimated revenue (i.e. receipts + beginning unencumbered cash).

¹⁸ ORC § 3709.28 establishes budgetary requirements for General Health Districts, which are similar to certain ORC Chapter 5705 budgetary requirements. On or about the first Monday of April the district must adopt an itemized appropriation measure. The appropriation measure, together with an itemized estimate of revenues to be collected during the next fiscal year, shall be certified to the county budget commission. Subject to estimated resources, the board of health may, by resolution, transfer funds from one appropriation item to another, reduce or increase any item, create new items, and make additional appropriations or reduce the total appropriation. Such appropriation modifications shall be certified to the county budget commission for approval.

You should cite ORC § 3709.28 if a General Health District: (1) does not adopt an itemized appropriation; (2) does not itemize estimated resources; or (3) appropriates more than its estimated resources as submitted to the county budget commission. Cite RC 5705.41(D) if a general health district: (1) disburses or encumbers more than appropriations at the legal level of control, or (2) obligates district moneys without the certification that section requires.

RC § 5705.28(C)(1) requires general health districts to file an estimate of contemplated revenue and expenses with the municipalities and townships within the district. They must file this by about June 1 (forty-five days prior to July 15). The county auditor cannot allocate property taxes from the municipalities and townships within the district if such filing has not been made (1984 Op. Atty. Gen. No. 84-013).

¹⁹ ORC Chapters 1724 and 1726 apply to community improvement corporations (CICs) and development corporations (DCs), respectively. Other than financial reporting (see OCS Chapter 4) the OCS does not include requirements generally considered to be direct and material. When auditing these entities, auditors should review the entity's articles of incorporation, by-laws, and contract, grant and debt agreements, to determine whether potentially direct and material requirements apply.

Matrix 2

Chapter 1: Budgetary & Certain Related Requirements (continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
7.	5705.39 Limitation of appropriations			✓		✓	✓	✓		✓	✓	✓	
8.	5705.40 Amending or supplementing appropriations			✓		✓	✓	✓		✓	✓	✓	
9.	5705.41(A), (B), (C) and (D) Restrictions on appropriating/expending money	21		✓	22	✓	✓	✓		✓	✓	✓	
10.	5705.41(D) "Blanket" fiscal officer certificates			✓	✓	✓	✓	✓		✓	✓	✓	
11.	9.34 Establish different fiscal year-ends for entities other than schools			✓		✓	✓	✓		✓	✓	✓	
	Additional Public Library Requirements												
17.	5705.23 Special levy	✓											
18.	5705.28 Tax budgets	✓											
19.	5705.281 Waiver of tax budget submission requirement	✓											
	Generic Requirements of Revenue, Funds and Transfers												
20.	5705.02 Ten mill limitations			✓		✓	✓	✓		✓	✓	✓	
21.	5705.09 Establish funds			✓		✓	✓	✓		✓	✓	✓	
22.	5705.10 Distribution of levy revenue			✓		✓	✓	✓		✓	✓	✓	
23.	5705.12 Approval to establish funds			✓		✓	✓	✓		✓	✓	✓	

²⁰ Ohio Administrative Code Section 117-8-02 requires libraries to appropriate annually, and prohibits expending more than appropriated. Auditors should also consider reportable internal control conditions if libraries do not base appropriations on reasonable estimates of available resources.

²¹ OAG 82-056 concluded that a board of public library trustees deriving funds from two or more subdivisions is therefore a district authority, subject to ORC 5705.41.

²² The only part of ORC § 5705.41 that does not apply to a general health district is § 5705.41(A). Instead, ORC 3709.28 applies to health districts. See related footnote on preceding page.

24.	5705.14-.16 Transfer funds			✓		✓	✓	✓		✓	✓	✓	
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Matrix 2

Chapter 1: Budgetary & Certain Related Requirements (continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
25.	Various 5705 Sections & AOS Bulletin 97-003 – Advances ²³			✓		✓	✓	✓		✓	✓	✓	
26.	5705.13 Reserve Accounts & Funds			✓		✓	✓	✓		✓	✓	✓	
	Add'l College Requirement												
29.	3354.10(A), 3357.10, 3358.06, 5705.41(D) Treas. fiscal certificate							✓	✓				

²³ Bulletin 97-03 applies to entities subject to RC 5705. This Bulletin describes the AOS' position on using transfers to advance / loan money from one fund to another.

Matrix 2

Chapter 2: Contracts and Expenditures

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
	Colleges and Universities												
20.	3354.16, 3357.16 Bidding on improvement contracts							✓					
	Libraries												
21.	3375.41 Contracts over \$25,000	✓											
	General												
23.	153.50, 153.51, 153.52 Bids and contracts for buildings/structures ²⁴	✓		✓				✓	✓		✓		
24.	4115.04, 4115.05 Prevailing wage	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
25.	9.314 Reverse Internet auction in lieu of sealed bids	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
27.	9.24 Unresolved Findings for Recovery	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	
	Other²⁵												
n/a	167.08 Councils of government: contracts for services to political subdivisions		✓										
n/a	6119.10 Regional water and sewer district: competitive bidding			✓									
n/a	3709.08, 3709.081, 3709.085 General health district contracting provisions				✓								
n/a	1545.09 Park district: contracting procedures required in bylaws						✓						

²⁴ These sections are applicable if the entity is required to bid.

²⁵ These sections are not included in the OCS, but auditors should test if material activity occurred.

Matrix 2

Chapter 2: Contracts and Expenditures

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
n/a	505.72 Gen. contracting procedures									✓			
n/a	505.42 Contracts ²⁶										✓		
n/a	4582.12 Competitive Bidding ²⁷											✓	

²⁶ Joint fire districts are subject to contracting provisions in ORC §§ 731.14 (\$25,000 bidding threshold) to 731.16.

²⁷ In addition to RC 4582.12 bidding requirements, note that port authorities need not bid for the lease, sale or lease with an option to purchase certain land and equipment. See ORC Section 4582.06(F)(1).

Matrix 2

Chapter 3: Debt ²⁸

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
1.	133.22 Leg. auth. Anticipation securities			✓		✓	✓	✓	✓	✓	✓		
1.	133.24 Tax anticipation notes ²⁹			✓		✓	✓	✓		✓	✓		
1.	5705.03 Auth. to levy taxes ³⁰			✓		✓	✓	✓		✓	✓	✓	
1.	5705.05 Gen. levy for current exp.					✓		✓		✓	✓	✓	
1.	5705.09 Est. of funds					✓		✓		✓	✓		
1.	5705.10 Disp. and use of tax rev.					✓		✓		✓	✓	✓	
2.	133.10 Anticipation securities	✓ ³¹		✓		✓	✓	✓	✓	✓	✓	✓	
3.	3375.404 Additional borrowing authority (Libraries)	✓											
4.	17 CFR § 240.15c2-12 Municipal securities ³²	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5.	505.401 Additional borrowing authority (Fire Districts)										✓		

²⁸ If the entity has a specific section that refers to its ability to issue bonds, notes or anticipatory securities, that section would supersede the general debt provisions in Chapter 133.

²⁹ For state universities, under ORC § 3345.66, they can issue notes, and this section states that Chapter 133 does not apply. However, if issuing bonds, Chapter 133 applies.

³⁰ For regional water and sewer districts and park districts, the only parts of ORC § 5705.03 that apply are those sentences referring to a “taxing unit.”

³¹ County Library districts and regional library districts must follow ORC 133. For all other libraries, only parts (A) and (B) of ORC 133.10 apply.

³² The term *Municipal Security* refers to any local government security, not just those municipalities issue.

Matrix 2

Chapter 4: Accounting and Reporting

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
	Accounting and Reporting Chapter												
2.	ORC 1724.05 & 1726.11; Annual Reporting												✓
5.	OAC 117-2-02 Required accounting records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	

Note: Community improvement corporations and development corporations are the only entities on this matrix required to follow GAAP. However for all entities listed on this matrix, auditors and financial statement preparers should read the guidance in the introduction to Chapter 4 regarding AOS Bulletin 2005-02.

Matrix 2

Chapter 5: Deposits and Investments

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
	Subdivisions Other Than Counties		33	34				35					
1 through 3	135.14 Eligible investments of interim monies	✓				✓	✓			✓	✓	✓	
4.	135.18 & 135.181 Security for repayment of public deposits	✓		✓		✓	✓ ³⁶			✓	✓	✓	
5.	135.21 Crediting invest. earnings	✓				✓	✓ ³⁷			✓	✓	✓	
5.	5705.10 Disposition of tax revenues and proceeds					✓				✓	✓	✓	
8.	135.37 Security for county deposits						✓						

³³ While not subject to RC 135, RC § 167.04 requires a council of government's bylaws to address investing, depositing and disbursing funds.

³⁴ For regional water and sewer districts, ORC § 6119.16 addresses investing funds and crediting interest.

³⁵ RC 3354.10(A) and 3357.10 prescribe depository and security requirements for community and technical colleges.

³⁶ If a park district appoints a treasurer, then ORC §§ 131.18 and 131.181 may apply. If a treasurer is not appointed, two things could happen:

- a. The board can resolve to select a depository per ORC 135.01-135.21, in which case 135.18 or 135.181 apply (OCS step 5-4); or
- b. If board resolutions are silent on this matter, the district must follow the procedures for county funds, which is ORC § 135.37 (OCS step 5-8)

³⁷ If a park district appoints a treasurer, ORC § 135.21 applies. If a park district does not appoint a treasurer, ORC § 135.351 applies. ORC § 135.351 requires park districts to credit interest as provided in ORC § 1545.22.

Matrix 2

Chapter 6: Other Potentially Direct and Material Laws and Regulations

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
1.	9.833 Health care self-insurance	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
2.	2744.081 Liability self-insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	

Matrix 2

Chapter 7: Checklist for Other Laws and Regulations

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	DC & CIC
	Contracting and Purchasing												
2.	Various – use of government credit/ purchasing cards, cell phones, government-owned equipment, etc.)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3.	Various – travel reimbursements (including “frequent flyer miles” accruals/ usage)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
	Accounting and Reporting												
5.	117.38 Filing financial reports	✓	✓	✓	✓	✓	✓	✓	³⁸	✓	✓	✓	
6.	9.38 Deposits of public money	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
7.	121.22 Meeting of public bodies	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
8.	149.43 Availability of public records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
	Libraries												
21.	3375.36 Statements; depository	✓											
	Payroll Taxes												
25.	Federal, state and local taxes	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
26.	Employees’ Retirement Sys.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	

³⁸ RC 3345.72(b) requires state universities and colleges to submit annual financial reports to the Auditor of State within 4 months after the end of the fiscal year (see Auditor of State Bulletin 2001-012).

Matrix 2

Chapter 7: Checklist for Other Laws and Regulations (continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Port Auth.	CDC & CIC
	Compensation Requirements												
7-30	Compensation, etc.							✓	✓				
	Deposits and Investments												
31.	135.22 Eligible deposits, etc. ³⁹	✓				✓	✓			✓	✓	✓	
32.	135.22, 321.46 investment education	✓				✓	✓			✓	✓	✓	
	Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics												
33.	1979 Op. Atty Gen. No. 79-111 Prohibitions from holding office	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
33.	Various ⁴⁷												
	Prohibited Political Activity												
34.	Various ⁴⁰												
	Bonding Requirements ⁴¹												
35.	1545.05 Park commission						✓						
35.	3375.32 Library clerk	✓											
35.	505.71 Joint ambulance district									✓			
35.	505.372 Joint fire district clerk										✓		

³⁹ If the treasurer of an entity invests under ORC § 135.14, the training requirements in ORC § 135.22 may apply.

⁴⁰ Some of the provisions of this OCS Section have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

⁴¹ For park districts, the bond amount is \$5,000. For libraries, joint ambulance districts and joint fire districts, the board determines the clerk's bond amount. Each university's ORC section prescribes its bonding requirements.

Matrix 3

OCS Section	Description	County	Township	City	Village	School	Community School
1-1	ORC 5705.28: Adoption of tax budget	✓	✓	✓	✓	✓	
1-2	ORC 5705.281: Waiver of tax budget submission requirement	✓	✓	✓	✓	✓	
1-3	ORC 5705.34: Certification of tax levies	✓	✓	✓	✓	✓	
1-4	ORC 5705.36: Certification of available revenue	✓	✓	✓	✓	✓	
1-5	ORC 5705.36: Amended certificates of estimated resources	✓	✓	✓	✓	✓	
1-6	ORC 5705.38: Annual appropriation measure	✓	✓	✓	✓	✓	
1-7	ORC 5705.39: Appropriations limited by estimated resources	✓	✓	✓	✓	✓	
1-8	ORC 5705.40: Amending or supplementing appropriations	✓	✓	✓	✓	✓	
1-9	ORC 5705.41 (A)(B)(C) and (D):Restrictions on the appropriation/expd. of money	✓	✓	✓	✓	✓	
1-10	ORC 5705.41 (D): “Blanket” fiscal officer certificates	✓	✓	✓	✓	✓	
1-11	ORC 9.34: Establishing different fiscal year ends for subdivisions other than school districts or a county school financing district	✓	✓	✓	✓		
1-12	ORC 118: Fiscal watch or fiscal emergency for a municipal corporation, county or township	✓	✓	✓	✓		
1-13	ORC 5705.391: School Boards and community schools to adopt spending plan					✓	✓
1-14	ORC 5705.412: Restriction upon school district expenditures					✓	
1-15	ORC 3315, 3317; 5705.29(F); Admin. Code 3301-92; and 117-2: Textbook and, capital reserve accounts					✓	

Matrix 3

OCS Section	Description	County	Township	City	Village	School	Community School
1-15(A)	ORC 5705.29 (F); Admin. Code § 3301-92-03 and; Temp. Law, Section 4, Senate Bill No. 345 of the 123rd General Assembly: Budget reserve accounts (FY 2002 and later)					✓	
1-16	ORC 3316.03: School district fiscal caution/watch/emergency					✓	
1-20	ORC 5705.02: Ten-mill limitation	✓	✓	✓	✓	✓	
1-21	ORC 5705.09: Establishing funds	✓	✓	✓	✓	✓	
1-22	ORC 5705.10: Distributing revenue derived from tax levies, etc.	✓	✓	✓	✓	✓	
1-23	ORC 5705.12: Permission to establish funds	✓	✓	✓	✓	✓	
1-24	ORC 5705.14, 5705.15, 5705.16: Transfer of funds	✓	✓	✓	✓	✓	
1-25	Auditor of State Bulletin 97-003, and various ORC Sections: Advances	✓	✓	✓	✓	✓	
1-26	ORC 5705.13 (A): Reserve balance accounts and funds	✓	✓	✓	✓	✓	
1-27	ORC 5101.144: Use of Children Services Fund for all such receipts	✓					
1-28	ORC 339.06: Organization of board of trustees; funds; administrator (hospitals)	✓					

Matrix 3

OCS Section	Description	County	Township	City	Village	School	Community School
2-1	ORC 715.18, 731.14, 731.141, 735.05, 735.051, 735.052, and 735.053: Municipal contracts			✓	✓		
2-2	ORC 731.16, 735.07: Altering or modifying municipal contracts			✓	✓		
2-3	ORC 117.16(A), 723.52 – Force Accounts [Certain] Municipal Corporations [Cities/Villages]			✓	✓		
2-4	ORC 305.30: Responsibilities of the county administrator	✓					
2-5	ORC 319.16, 307.86, and 9.37 County payments to be by auditor's warrant; Competitive bidding	✓					
2-6	ORC 117.16(A), 5543.19 – Force Accounts – Counties	✓					
2-7	ORC 505.08, 505.101, 505.42, 505.46, 507.11(B), 511.12, 515.01, 5549.21, 5575.01, and 2000 Op. Atty. Gen. No. 2000-19: Township expenditures		✓				
2-8	ORC 117.16(A), 5575.01 – Force Accounts – Townships		✓				
2-9	ORC 3313.33: Conveyances and contracts					✓	
2-10	ORC 3313.46: Procedures for bidding and letting of contracts					✓	
2-11	ORC 3313.37 and .375: Acquisition of school real estate, building, equipment					✓	✓ ⁴²

⁴² RC 3313.37 does not apply to community schools. RC 3313.375 does apply to community schools.

Matrix 3

OCS Section	Description	County	Township	City	Village	School	Community School
2-12	ORC Chapter 3318: Permissible expenditures for school districts participating in the Classroom Facilities Loan Program (and related classroom facility programs)					✓	
2-13	ORC 3318.35: Permissible expenditures for school districts participating in the Emergency Repair Program and, the required funds to account for the activity					✓	
2-14	ORC 3318.35: Temporary Law; School Building Assistance Limited Fund for the Big 8 school districts					✓	
2-15	ORC 3327.08: School bus purchases					✓	✓
2-16	Community School Bidding Requirements						✓
2-17	ORC 3314.034(A) E-school leases for instructional space						✓
2-18	ORC 339.05: County hospital bidding procedures and purchasing policies for supplies/equipment	✓					
2-19	ORC 749.26, 749.27, 749.28, 749.29, 749.30, and 749.31: Municipal hospital contract procedures			✓			
2-22	ORC 9.48: Joint contracting and purchasing programs for counties and townships	✓	✓				
2-23	ORC 153.50, 153.51, 153.52: Bids and contracts for buildings/structures	✓	✓	✓	✓	✓	
2-24	ORC 4115.04, 4115.05: Prevailing wage rates	✓	✓	✓	✓		
2-25	ORC 9.314: Reverse Internet auction in lieu of sealed bids (all political subdivisions)	✓	✓	✓	✓	✓	
2-26	ORC 117.16(A), 723.52, 5543.19, 5575.01 – Force Accounts	✓	✓	✓	✓		
2-27	ORC 9.24 Unresolved Findings for Recovery	✓	✓	✓	✓	✓	✓

Matrix 3

OCS Section	Description	County	Township	City	Village	School	Community School
3-1	Ohio Const. Art. XII, Section 11; Ohio Const. Art. XVIII, Section 12, ORC 133.10, 133.22 133.24, 321.34, 5705.03, 5705.05, 5705.09 and 5705.10; 1981 Op. Atty Gen. No. 81-035: Retiring Debt	✓	✓	✓	✓	✓	
3-2	ORC 133.10, 133.22 & 133.24: Anticipation Notes	✓	✓	✓	✓	✓	
3-4	17 C.F.R. § 240.15c2-12: Issuing Municipal Securities	✓	✓	✓	✓	✓	
3-6	ORC 3314.08(J): Community School Facility Anticipation Notes						✓
3-7	ORC 3318.50(B); School Classroom Facilities Loan Guarantee Program						✓
3-8	ORC 3314.30 Community school revolving loan program						✓
4-1	OAC 117-2-03 (B): GAAP Financial Reporting (counties, cities, school districts, and community schools)	✓		✓		✓	✓
4-3	ORC 3314.024 Footnote disclosure of management company expenses						✓
4-4	ORC 117.111(A) Security controls over counties' electronic records	✓					
4-5	OAC 117-2-02 Required accounting records	✓	✓	✓	✓	✓	✓

OCS Section	Description	County	Township	City	Village	School	Community School
5-1	ORC 135.14, 133.03(A)(1): Eligible investments for interim monies		✓	✓	✓	✓	
5-2	ORC 135.14, 133.03(A)(1): Other requirements		✓	✓	✓	✓	
5-3	ORC 135.142, 135.14(B)(7): Other allowable investments		✓	✓	✓	✓	
5-4	ORC 135.18, 135.181: Security for repayment of public deposits		✓	✓	✓	✓	
5-5	Article XII, Section 5a, Ohio Constitution; ORC 135.21, 135.351 and 5705.10; 1982 Op. Atty. Gen. No. 82-031 and 7 CFR Part 210.02, 210.2, 210.5 and 210.14(a): Allocating interest among funds		✓	✓	✓	✓	
5-6	ORC 135.34, 135.341: Investment advisory committee	✓					
5-7a	ORC 135.35: Eligible investments	✓					
5-7b	ORC 135.35: Other requirements	✓					
5-8	ORC 135.37: Security for repayment of public deposits	✓					
5-9	Article XII, Section 5a, Ohio Constitution; ORC 135.21, 135.351 and 5705.10; 1982 Op. Atty. Gen. No. 82-031: Allocation of interest among funds	✓					
5-10	Community School Investments						✓
6-1	ORC 9.833: Health Care Self Insurance	✓	✓	✓	✓	✓	✓
6-2	ORC 2744.081: Liability Self Insurance	✓	✓	✓	✓	✓	✓
6-3	OAC 3745-27-15 through 18: Landfill Certifications	✓	✓	✓	✓		
6-4	ORC 5735.29 Fuel excise taxes—"supplement, not supplant" requirement	✓	✓	✓	✓		
6-5	ORC 3317.03, OAC 3301-51-13: School District Average Daily Membership					✓	
6-6	OAC 3301-61-16 Vocational Education Funding					✓	✓
6-7	ORC 3314.03(11)(b): Community School Liability insurance						✓
6-8	ORC 3314.08(G): Community School Tuition						✓
6-9	ORC 3314.02(E): Governing authority						✓
6-10	ORC 3314.03 Sponsor monitoring of community schools						✓
6-11	ORC 505.24(C) Allocating trustee per diem costs to funds		✓				

OCS Section	Description	County	Township	City	Village	School	Community School
7-1	ORC 307.93(G), 341.25, 753.22, and 2301.57: Establishment and accounting treatment of Commissaries	✓		✓	✓		
7-2	Misc. local legislative body policies; charter requirements (for use of cell phones, government credit cards and purchasing cards, and government-owned vehicles and equipment)	✓	✓	✓	✓	✓	✓
7-3	Misc. local legislative body policies; charter requirements; Ohio Ethics Commission Advisory Opinion No. 91-010; Ohio Rev. Code Sections 102.03(D) and (E), 2921.42(A)(4), and 2921.43(A) (travel reimbursements; “frequent flyer miles” accrual/usage)	✓	✓	✓	✓	✓	✓
7-4	ORC 301.27, 301.29 County credit and procurement cards	✓					
7-5	ORC 117.38: Filing of financial reports (other than state agencies)	✓	✓	✓	✓	✓	✓
7-6	ORC 9.38: Deposits of public money	✓	✓	✓	✓	✓	✓
7-7	ORC 121.22: Meeting of public bodies to be open, exceptions, and notice	✓	✓	✓	✓	✓	✓
7-8	ORC 149.43: Availability of public records	✓	✓	✓	✓	✓	✓
7-9	ORC 2335.25: Cashbook of costs etc	✓					
7-10	ORC 2303.12: Books to be kept by clerk of the court of common pleas	✓					
7-11	ORC 2101.12: Records to be kept by the probate courts	✓					
7-12	ORC 2335.34 - .35: Unclaimed costs and fees (court of common pleas and probate court)	✓					
7-13	ORC 2151.18: Records; annual report; distribution (juvenile court)	✓					
7-14	ORC 1907.20: Records required of county courts	✓					
7-15	ORC 1901.31-.32: Municipal court records	✓		✓			
7-16	ORC 1905.21 and 733.40: Records required and disposition of receipts for mayor’s court			✓	✓		

Matrix 3

OCS Section	Description	County	Township	City	Village	School	Community School
7-17	Various ORC Sections: Collection, custody and disbursement of fees, fines	✓		✓	✓		
7-18	ORC 2743.70, 2949.091: Additional court costs	✓		✓	✓		
7-19	Various ORC Sections: Fines and penalties to be paid to law libraries	✓		✓	✓		
7-20	ORC 2113.64, 2113.65: Unclaimed money (probate court)	✓					
7-22	ORC 319.04: Training and continuing education requirements for county auditors	✓					
7-23	ORC 319.11: County financial reports	✓					
7-24	ORC 517.15: Permanent cemetery endowment fund		✓				
7-25	Various federal and state codes: Income tax collection, liability etc	✓	✓	✓	✓	✓	✓
7-26	Various ORC sections: Definitions, rates of contributions etc	✓	✓	✓	✓	✓	✓
7-27	ORC 505.60 and 505.601: Reimbursement of insurance premiums – Townships		✓				
7-28	ORC 505.603 - “Cafeteria Plans” – Townships		✓				
7-29	Various ORC sections: Vacation and sick leave benefits	✓	✓	✓	✓	✓	
7-30	Various ORC sections: Appointments, compensation, contracts etc	✓	✓	✓	✓	✓	
7-31	Various ORC sections: Designating depositories	✓	✓	✓	✓	✓	

OCS Section	Description	County	Township	City	Village	School	Community School
7-32	ORC 135.22, 321.46: Education requirements	✓	✓	✓	✓	✓	
7-33	Various ORC Sections: Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics	✓	✓	✓	✓	✓	✓ ⁴³
7-34	ORC 124.57, 124.59, 124.61, 3315.07(C): Political activities prohibited	✓	✓	✓	✓	✓	
7-35	Various ORC Sections: Bonding requirements	✓	✓	✓	✓	✓	✓
7-36	ORC 325.071, 325.12: Furtherance of justice allowance	✓					
7-37	ORC 325.07: Sheriff's transportation of prisoners allowance	✓					
7-38	ORC 2301.35 (H)(1): Child support fees	✓					
7-39	Various ORC Sections: Electric kilowatt-hour tax	✓		✓	✓		
7-40	Various ORC and OAC Sections: School licensing requirements					✓	✓
7-41	ORC 3313.291 - School District Petty Cash Accounts					✓	
7-42	ORC 3314.03(A) Community School Tax Status						✓

⁴³ Most provisions described in 7-33 apply to community schools; except RC 3329.10 does not apply.

Appendix G

FOJ, Sheriff Transportation, and Law Enforcement Trust Fund -- Audit Programs

Auditors auditing counties should use the audit programs in this appendix to test the Sheriff and Prosecutor Furtherance of Justice Funds, the Sheriff Transportation Fund, and any moneys county law enforcement agencies receive from the Law Enforcement Trust Fund. Auditors should use these audit programs according to the following schedule. However, if problems were noted with one of the funds in the previous year, apply the audit programs annually until the problems have been corrected (for example, the audit program procedures should be applied if significant expenditures were noted in the previous year which were not supported by appropriate documentation or were not for a proper public purpose). Auditors should also apply the audit program procedures in any year in which the sample questions and procedures outlined in Chapter 7 identify significant unusual items.

Regions should implement the use of these audit programs as follows, with the audit programs being applied at least every third year thereafter:

<u>2005 Fiscal Year</u> <u>(2008, 2011, etc.)</u>	<u>2006 Fiscal Year</u> <u>(2009, 2012, etc.)</u>	<u>2007 Fiscal Year</u> <u>(2010, 2013 etc.)</u>
<u>Canton Region</u>		
Medina	Stark	Holmes
Wayne	Tuscarawas	Ashland
Summit	Coshocton	Richland
<u>Columbus Region</u>		
Franklin	Licking	Madison
Pickaway	Knox	Union
Ross	Morrow	Marion
Fairfield	Delaware	Wyandot
		Crawford
<u>Cleveland Region</u>		
Lorain	Lake	Geauga
Cuyahoga		
<u>Cincinnati Region</u>		
Preble	Warren	Clinton
Butler	Clermont	Fayette
Hamilton	Brown	Highland
		Adams

**2005 Fiscal Year
(2008, 2011, etc.)****Dayton Region**

Montgomery
Greene
Clark
Miami

**2006 Fiscal Year
(2009, 2011, etc.)**

Champaign
Shelby
Darke
Logan
Hardin

**2007 Fiscal Year
(2010, 2013, etc.)**

Auglaize
Mercer
Allen
Van Wert

Southeast Region

Athens
Meigs
Hocking
Vinton
Jackson
Washington

Gallia
Lawrence
Scioto
Pike
Monroe
Perry

Morgan
Muskingum
Guernsey
Noble
Belmont

Toledo Region

Lucas
Paulding
Putnam
Wood

Williams
Fulton
Erie
Defiance
Henry

Hancock
Ottawa
Sandusky
Seneca
Huron

Youngstown Region

Ashtabula
Mahoning
Trumbull

Portage
Columbiana
Carroll

Jefferson
Harrison

Furtherance of Justice (FOJ) Audit Program

Per Ohio Rev. Code § 325.071 the sheriff’s annual FOJ appropriation equals ½ of the Sheriff’s salary. Ohio Rev. Code § 325.06(A) and 325.18(C) prescribe sheriffs’ salaries. Note that the additional 1/8 salary paid to sheriffs per RC 325.06(B) is **not** includable in the FOJ calculation.

Per Ohio Rev. Code §325.12, the prosecutor’s annual FOJ appropriation equals ½ of the prosecutor’s salary. This appropriation is to cover expenses incurred in performing the prosecutor’s official duties and in the furtherance of justice.

The statutes require the sheriff and the prosecutor to file with the county auditor by the first Monday in January a full accounting of the expenditure of all funds from the FOJ account for the previous year. The statute requires the redeposit of any remaining funds, including cash held by officers, to the county treasury.

No.	Procedure/Question	Initial/Date	W/P Ref.
1.	Determine whether the sheriff and prosecutor filed a full accounting of expenditures of all funds from the FOJ account with the County Auditor by the first Monday in January as required by Ohio Rev. Code Section 325.071 and 325.12(E).		
2.	Examine the county’s computation of amounts payable from the general fund to the FOJ account per RC 325.071 & 325.12. Compare the computation to actual payments. Investigate any differences and determine whether the prosecutor received approval from the court of common pleas under Ohio Rev. Code Section 325.13 to allocate any additional funds to the FOJ account. Per AOS Bulletin 97-14, any amounts paid to the FOJ fund in excess of the statutory limits described above will result in a finding for adjustment against the FOJ fund.		
3.	Determine whether a written internal control policy exists for administering and expending funds in the FOJ account. Compare the county’s internal control policies to the guidance provided in AOS MAS Bulletin/Circular 81-07 for consistency (available in the AOS Briefcase). Lack of a clear, written policy should be communicated to the audit committee and/or management officials of the County.		

No.	Procedure/Question	Initial/Date	W/P Ref.
4.	<p>Does the policy establish clear internal controls regarding the distribution of the funds? If so:</p> <ul style="list-style-type: none"> a. Do officers receiving cash sign a form or prenumbered, duplicate receipt for all money received? b. Does the officer providing the cash also sign a form acknowledging the disbursement of cash? c. Obviously the department should not obtain receipts for payments to informants. However, do officers submit vendor invoices, cash register slips or other documentation to support other uses of funds (similar to an imprest petty cash fund)? d. Are officers required to keep an Agent Expense Report or similar paperwork? e. What does the policy state an officer should do when a receipt cannot be obtained? Examine evidence supporting whether or not officers comply with the policy. f. Does the policy require affidavits when officers pay cash to informants and for other confidential purposes? 		

Furtherance of Justice (FOJ) Audit Program

No.	Procedure/Question	Initial/Date	W/P Ref.
5.	<p>Obtain the county’s reconciliation of bank balances to the activity in the FOJ account cash book.</p> <ol style="list-style-type: none"> 1. Foot the reconciliation. 2. Agree the bank balance per the reconciliation to the bank account statement balance. 3. Scan reconciling items for reasonableness. <ol style="list-style-type: none"> a. Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank. 4. Agree the book balance per the reconciliation to the FOJ account balance. 5. Trace payment of the remaining year end FOJ balance to a receipt / revenue into the county treasury, as RC 325.071 (sheriff) and RC 325.12(E) (prosecutors) requires. 		
6.	<p>Obtain the check register and review the payees* for reasonableness of the expenditure. If there are checks written to the Sheriff or other high ranking officials, include these disbursements in the test that step 7 describes.</p> <p>*Due to the 21st Century Check Act, there are instances in which the bank is no longer able to return an original paper check or a photocopy of an original paper check. Instead, the bank is able to provide you with only a “display history” of a withdrawal from your checking account. Information on a bank’s “display history” typically includes, but is not limited to, the number of the account upon which the check is drawn, routing information, the person or entity to whom the check was made payable, the purpose for which the money was paid, and the amount paid to the person or entity. Because a bank’s “display history” of a withdrawal from a checking account sets forth the same information that appears on an original paper check or a photocopy of an original paper check, such a “display history,” like an original paper check or photocopy of an original paper check, may provide a reasonable and reliable means by which a county prosecuting attorney can accurately account for a disbursement from his furtherance of justice allowance. [AG Opinion 2005-035] Also see AOS Bulletin 2004-10.</p>		

<p>7.</p>	<p>Select a representative group of disbursements from the year end FOJ report, listing the check number, date, amount, and payee, and determine that:</p> <ol style="list-style-type: none"> 1. amount per the report agrees with the canceled check or receipt. 2. check is properly endorsed and signed by the Sheriff 3. expenditure is for furtherance of justice (almost everything counts except personal items—see the guidance in Bulletin 81-07 and 97-14) 4. Determine that the officer completes an affidavit to support confidential payments, describing the amount of the expenditure and either the check number or the receipt number related to the expenditure as well as a statement of a general nature of the expenditure. If an affidavit is executed, the Auditor of State will not require production of the actual check or receipt and will not make any further inquiry into the detail surrounding the expenditure unless there is probable cause to believe that the affidavit is false. If no affidavit is executed, the officer must produce sufficient documentation to support that the expenditure is for a proper public purpose. Please note that a mere assertion by the officer that an expenditure is confidential is not sufficient to negate the documentation requirements. 5. Determine whether other (i.e. non confidential) disbursements are adequately supported by original documents (e.g., original invoices, receipts, receiving report, etc.) 6. Determine that checks do not appear to have been altered 7. Determine whether amounts agree among related documents, and that computations (footings, extensions, etc.) are correct. 		
<p>Audit implications and/or management comments:</p>			

Transporting Prisoners, Sheriff Travel and Training Audit Program

ORC 325.07 governs the Transportation of Prisoner account, and requires the county commissioners to make monthly allowances to the Sheriff for his **actual and necessary expenses**, incurred and expended in pursuing within or without the state or transporting persons accused or convicted of crimes or offenses.

Each Sheriff shall file under oath a monthly report containing a full, accurate, and itemized account of his actual and necessary expenses, including telephone tolls and any other transportation expense mentioned in this section, **before the board allows the expense.**

The statement shall show the number of cases, the court in which the service was rendered, and the point from which a transportation vehicle was used.

The board may authorize a sum not exceeding 50% of the sheriff’s annual salary, as an advance necessary for the duties within this section.

After approving the monthly report, the board may restore to the fund the amount the sheriff expended. The sheriff shall pay any unexpended funds remaining at the end of the fiscal year into the county treasury.

No.	Procedure/Question	Initial/Date	W/P Ref.
1.	Determine whether the advance amount did not exceed the permitted amount. Compare the amount the statute permits (one half of the Sheriff’s salary), to the advance the commissioners approved.		
2.	Obtain a copy of the department’s written policies and procedures regarding transporting prisoners. Use this policy as the criteria for the testing described below. If there are no written policies, determine which policy, (i.e. the <u>county’s</u> travel policy or the <u>sheriff’s</u> travel policy) applies.		
3.	Scan selected sheriff’s monthly reports to the commissioners, and determine if they are itemized and include all of the information required by law (i.e., the number of cases, the court in which the service was rendered, and the point from which a transportation vehicle was used). In addition, review several trips for reasonableness. For example, a trip to Florida might include transportation, meals, and lodging. Every expenditure related to the transportation must be supported by an actual receipt (hotel bills, itemized restaurant receipts, receipts for airline tickets, and a detailed description regarding the prisoner transport).		
4.	Select a few* transportation costs during the audit period and determine if the expenditures related to the trip are in compliance with the terms and limitations described in the policies obtained in Step 2 above. Obtain the expense reports the transporting officers submitted and compare the total expenses incurred for the transport(s) to the total recorded on the report to the commissioners. Document any discrepancies. *Since we are not opining on this activity, we do not require a high level of assurance and need not test 60 items.		

Transporting Prisoners, Sheriff Travel and Training Audit Program

Travel and Training			
No.	Procedure/Question	Initial/Date	W/P Ref.
1.	<p>Select a few* conferences attended by the Sheriff and some of his top officers, comprising the largest conference disbursements, and review the detailed expenditures reimbursed for each trip to determine if they comply with the appropriate policy. In addition, review each trip for reasonableness. For example, a conference such as the National Sheriff Association (NSA) probably would include transportation, meals, and lodging. All expenses related to the trip should be recorded on one expense report for each individual attending the conference. All expenses should be supported by receipts.</p> <p>*Since we are not opining on this activity, we do not require a high level of assurance and need not test 60 items. If conferences are infrequent, testing one might be sufficient.</p>		
Audit implications and/or management comments:			

Law Enforcement Trust Fund Audit Program

Mandatory Drug Fine

Ohio Rev. Section 2925.03 (F)(1) requires the clerk of a court to pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county. . . or state law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section. **(Steps 1-5)**

Ohio Rev. Section 2925.03 (F)(2) provides guidance on preparing an internal control policy which describes the general types of allowable expenditures from the Law Enforcement Trust Fund. **(Steps 1-5)**

Ohio Rev. Code Section 2925.03 (F)(2)(b) states in part that each law enforcement agency receiving fine moneys under (F)(1) of this section or division (B)(5) of Ohio Rev. Code 2925.42 shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by that agency pursuant to (F)(2)(a) of this section, and shall send a copy of the cumulative report to the Attorney General by March 1. **(Steps 1-12)**

Forfeited Moneys

Ohio Rev. Code Section 2933.43 (D)(3)(a)(i) requires sheriffs and county prosecutors to adopt an internal control policy relating to proceeds and forfeited money. The policy should address the use and disposition of all the proceeds and forfeited moneys, the general type of expenditures to be made out of the proceeds and forfeited moneys received, and records to be maintained.

Ohio Rev. Code Section 2933.43 (D)(3)(b) provides that any law enforcement agency that receives or uses any proceeds or forfeited monies out of a law enforcement trust fund under division (D)(1)(c) of this section shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept pursuant to division (D)(3)(a) of this section and shall send a copy of the cumulative report to the Attorney General by March 1. **(Steps 1-12)**

Law Enforcement Trust Fund Audit Program

No.	Procedure(s)	Initial/Date	W/P Ref.
1.	<p>Obtain the written internal control policy RC 2925.03(F)(2)(a) requires. The policy should address the law enforcement agency's use and disposition of all drug fine moneys received, and require using detailed financial records of the receipts of the fine moneys, the general types of expenditures made of this fine money, and the specific amount of each general type of expenditure.</p> <p>The policy shall not provide for or permit the identification of any specific expenditure made for an ongoing investigation. All financial records of receipts and expenditures by the law enforcement agency are considered public records open for inspection.</p>		
2.	<p>Review the written internal control policy for the appropriate elements noted in step 1 above. (If we reviewed the policy in an audit 3 years ago, scan for changes and document in the permanent file.)</p>		
3.	<p>Determine if the law enforcement agency implemented the written internal control policy and has complied with the provisions pertaining to the use and disposition of drug fine moneys received, keeping of detailed financial records, allowability of expenditures made, and any limitations on the amount of each general type of expenditure.</p> <p>We should test this via procedures we use to determine if controls have been placed in operation. These might include a walk-through and scanning a few disbursements and the related documentation and financial records. See AOSAM 30500.45.</p>		
4.	<p>Obtain the report RC 2925.03(F)(2)(b) requires, covering the current fiscal year cumulating all of the information contained in the public financial records kept by the agency and determine whether a copy was filed with the Attorney General's Office not later than March 1.</p>		

<p>5.</p>	<p>An additional fine imposed under RC 2929.18(B)(4) does not require distribution to LET funds per RC 2929.18(F) of this section.</p> <p>Instead, fines imposed under RC 2929.18(B)(4) must be used to subsidize the agency’s law enforcement efforts pertaining to drug offenses, in accordance with the written internal control policy the recipient agency adopts under RC 2925.03(F)(2). Determine if any such fines existed and were spent according to RC 2925.03(F)(1).</p>		
<p>6.</p>	<p>Obtain the bank accounts and support documentation representing LET fund activity established by the prosecuting attorney and by the sheriff.</p>		
<p>7.</p>	<p>Test the bank reconciliation.</p> <ol style="list-style-type: none"> 1. Foot the reconciliation. 2. Agree the bank balance per the reconciliation to the bank account statement balance. 3. Scan reconciling items for reasonableness. Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank. 4. Agree the book balance per the reconciliation to the LET fund accounting record’s balance. 		
<p>8.</p>	<p>Scan disbursements for any unusual items.</p>		

Law Enforcement Trust Fund Audit Program

No.	Procedure(s)	Initial/Date	W/P Ref.
9.	<p>This step applies to both drug fines (RC 2925.03(F)(1) and forfeited money (RC 2933.43(D)(1)(c)(ii).</p> <p>Scan selected LET fund disbursements and supporting documentation (e.g. invoices, etc.) to determine if they were used only for:</p> <ul style="list-style-type: none"> • protracted or complex investigations or prosecutions, • to provide reasonable technical training or expertise, • to provide matching funds to obtain federal grants to aid law enforcement, • in support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse, • to pay the costs of emergency actions taken under RC 3745.13 relative to operating an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for operating the laboratory, • or other law enforcement purposes that the prosecuting attorney and sheriff determines appropriate. • The funds must not be used to meet the operating costs of the prosecuting attorney or sheriff. <p>The funds' use is also subject to the written internal control policy described in Step 1 above. If transactions do not comply with the policy, we should cite noncompliance with the policy.</p> <p>We require only a low level of assurance from this testing. Select sample sizes accordingly, or use high dollar testing if it is more efficient and provides greater coverage.</p>		
10.	<p>Determine if the prosecuting attorney and sheriff have adopted a written internal control policy addressing the use of moneys received from contraband as required by RC 2933.43 (D)(3)(a)(i). Test costs selected in Step 9 above and ensure forfeited monies from drug related cases have been expended only in accordance with the written internal control policy adopted.</p>		

11.	Determine if the prosecuting attorney and sheriff have filed the report RC 2933.43 (D)(3)(b) requires with the Attorney General by March 1.		
12.	Determine if moneys from the sale of contraband were disbursed to the appropriate agency or fund as indicated in the internal control policy.		
<p>Audit implications and/or management comments:</p>			

Appendix H

Agricultural Society Compliance Supplement

You should use this appendix for all audits of Agricultural Societies.

Agricultural societies incorporate as either county (per RC 1702.01) or independent (per RC 1702.2). Certain laws herein apply to one or both types. Each step describes to which type of society it applies.

The first six steps match the topics of the first six chapters of the Ohio Compliance Supplement. Therefore, the first six steps are laws and regulations that AOS normally considers “direct and material” (i.e. where significant violations require reporting in the compliance and internal controls report Government Auditing Standards requires. The sub steps in Step 7 are matters the Auditor of State considers important for fulfilling a society’s stewardship responsibilities, analogous to Chapter 7 in the Ohio Compliance Supplement. However, noncompliance with those requirements may not require reporting as material noncompliance. Auditors should evaluate the materiality of all noncompliance findings to determine the proper reporting. See the Introduction to the Ohio Compliance Supplement for more on testing and reporting requirements.

Agricultural Society Compliance Supplement

Applicability: County and independent societies

1. Budgetary Compliance Requirement: An Agricultural Society is not required to follow the budgetary statutes within ORC Chapter 5705. However, the *Uniform Agricultural Society Accounting System User Manual* states:

Each agricultural society shall prepare an annual budget of its revenues and expenses. The budget shall cover the period December 1st through November 30th.

The budget shall be considered and approved by the board of directors prior to the first day of the ensuing fiscal year. The budget shall be prepared at the level of the accounts from the chart of accounts which are used by the society.

Budgeted revenues and expenses should be distributed to the month they are likely to be received and expended. The distributed monthly budget should be integrated into the society's accounting system.

Actual revenues and expenses shall be compared to budgeted amounts each month, and reported to and reviewed by the board of directors. The board of directors shall determine the reasons why actual expenses exceed or are less than budgeted expenditures by making inquiries to fair management about the reasons.

The budget is not legally binding unless the Board adopts a resolution making the budget legally binding. If no such resolution is adopted, the failure to monitor budgeted revenues and expenses is an internal control weakness, but not a noncompliance violation.

If the Board adopts a resolution to make the budget legally binding, GASB Codification 2400.103 requires presenting budgetary comparisons if the legislative authority adopts an appropriated* budget.

If the authority overexpends its budget, we should consider whether it is material noncompliance for the GAGAS Report. We would cite noncompliance with the Board resolution adopting the budget.

[Insert applicable budgetary requirements.]

* An appropriation is authorization to expend money.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Periodic Reviews/Comparisons of Budgeted and Actual Amounts • Presence of Effective Accounting System • Legislative and Management Monitoring • Management's identification of changes in 		

<p>laws and regulations</p> <ul style="list-style-type: none"> • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures – Compliance (Substantive) Tests:</p>		<p>W/P Ref.</p>
<p>a. <u>Read resolutions and determine whether the society intends their budget to be legally binding. If so, include a copy or abstract of the resolution in the permanent file, and include step e below.</u></p> <p>b. Inquire (or determine from reading the minutes) if amended or supplemental measures have been passed.</p> <p>c. Inspect the government’s records throughout the period to determine if updates and adjustments were properly and timely posted.</p> <p>d. <u>Apply limited procedures to determine if the Board uses the budget to monitor activities. Evidence of monitoring would include:</u></p> <ul style="list-style-type: none"> a. <u>Including a copy of budget vs. actual results in meeting agendas.</u> b. <u>Evidence in the minutes of discussion of results.</u> c. <u>Memos from board members to other employees investigating variances.</u> <p>e. <u>If the budget is legally adopted:</u></p> <ul style="list-style-type: none"> a. <u>Scan for negative variances at the legal level of control. Report these findings in the management letter or GAGAS report depending on their significance.</u> b. <u>Agree the budget and actual amounts to a budget presentation in the audited statements or footnotes. Footnotes should briefly describe the budget process.</u> 		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Applicability: County and independent societies

2. Contracts and Expenditure Compliance Requirement: Ohio Revised Code Sections 4115.04 and 4115.05 – Prevailing wage rates.

Summary of Requirement: The prevailing wage laws essentially require an entity to obtain the prevailing wages in their area for the types of labor required to complete the project they are going to bid before such project is bid and again when the contract is awarded, if the award is made more than 90 days after the original prevailing wage is determined. They then need to make sure that the contractors who are awarded the contracts agree, in the contract, to pay the prevailing wage.

Exceptions:

- When a project is receiving federal funding, prevailing wage law does not apply if the Davis Bacon Act, which is a federal prevailing wage law, applies instead.
- If contractors are using employees that are taking part in certain programs established by the Bureau of Employment Services, prevailing wages do not apply to these individuals.

If you are conducting a federal single audit, and this provision applies, follow Federal Davis-Bacon regulations for Federal dollars spent for construction contracts.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
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- Policies and Procedures Manuals
- Knowledge and Training of Personnel
- Oversight Body Monitoring
- Management’s identification of changes in laws and regulations
- Management’s communication of changes in laws and regulations to employees

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Suggested Audit Procedures – Compliance (Substantive) Tests:

- a. Inquire if the contract is funded in whole or part by federal grant or contract. If so, perform appropriate federal audit procedures.
- b. Inspect contracts for the required “prevailing wage” language.
- c. Compare the date of prevailing wage establishment with the contract date. If more than 90 days elapsed between the two dates, determine that a prevailing wage redetermination was obtained by inspecting that document.
- d. Inquire and inspect documentation supporting whether the Ag Society compares actual salary payments to the prevailing wage rates.

W/P Ref.

Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Applicability: County societies

3a. Debt Compliance Requirement: Ohio Revised Code Sections 1711.18 – Issuance of county bonds to pay debts of county society; 1711.19 – Bonds; 1711.20 – Levy for payment of bonds; and 1711.21 – Use of money raised by county taxation.

Summary of Requirement: In a county in which there is a county agricultural society indebted fifteen thousand dollars or more and such society has purchased a fairground or title to such fairground is vested in fee in the county, the board of county commissioners shall submit to the electors of the county whether or not county bonds shall be issued and sold to liquidate such indebtedness. If a majority of the voters vote in favor thereof, the board of county commissioners shall issue and sell bonds of the county in the amount necessary. Such bonds shall bear interest at not more than the rate RC 9.95 provides,¹ payable semiannually, and shall be issued for a period of not less than ten nor more than twenty years.

From the proceeds arising from the sale of such bonds, the board shall pay off the indebtedness for which such bonds were sold. The board of county commissioners shall levy a tax upon all the taxable property on the tax duplicate of the county for the purpose of paying such bonds as they mature and the interest thereon.

When money has been raised by taxation by a county for the purpose of leasing lands for county fairs, erecting buildings for county fair purposes, or making improvements on a county fairground, or for any purpose connected with the use of a county fairground or with the management thereof by a county agricultural society, such money shall be used for such purpose only.

Note: Bonds a county issues under this section are **county** liabilities, though the society may agree to repay the county for debt service due on the bonds. (If the society contractually agrees to pay the county for the debt service, the society’s notes should disclose a debt obligation to the county. However, do **not** characterize the obligation as *bonds payable*.)

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
<ul style="list-style-type: none"> a. Inspect cash receipt records and minutes and determine if indebtedness exists. b. <u>For bonds a county issues during the audit period, compare disbursements of the proceeds to the bond documents to determine if the proceeds were spent for purposes for which the bonds were issued.</u> c. <u>For bonds issued during the audit period, read bond contracts and summarize provisions applicable to the Society, and save in the permanent file. The</u> 		

¹ RC 9.95 states: Interest shall not exceed the maximum or maximum average annual interest rate per annum determined in or pursuant to the proceedings for the securities by the county commissioners.

<p><u>summary should describe:</u></p> <ul style="list-style-type: none">a. <u>Purposes for which the debt was issued.</u>b. <u>Collateral</u>c. <u>An amortization schedule for any debt service the society owes to the county.</u>d. <u>For years in which the society owes debt service to the county, agree payments to the amortization schedule.</u>e. <u>Determine if a debt footnote describes the purpose, original issue amount, collateral, and an amortization schedule for this debt.</u>	
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Applicability: County society		
<p>3b. Debt Compliance Requirement: Ohio Revised Code Sections 1711.25 to 1711.30 – Sale, lease, purchase, and exchange of sites by county society; payment for new site by county funds or bonds; tax levy; and approval by electors.</p>		
<p>Summary of Requirement: A county agricultural society may secure a different site for its annual fair. If this occurs, auditors should review the Ohio Revised Code sections listed above and develop appropriate audit procedures.</p>		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
<p>a. By reading the minutes, determine if the Society procured a different site for its fair, or acquired or disposed of land where the annual fair is held. If so, review the code sections above for specific requirements.</p> <p>b. <u>In the year these transactions occur, read contracts and summarize requirements imposing debt or lease payments, collateral, insurance or other obligations on the society. Save the summary in the permanent file.</u></p> <p>c. <u>Determine if the footnotes adequately describe any leases or other society obligations, amortization schedules, etc.</u></p> <p>d. <u>For subsequent years, agree any debt or lease payments owed to the contract summary in the permanent file.</u></p>		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Applicability: County societies

3c. Debt Compliance Requirement: Ohio Revised Code Sections 1711.13 – County agricultural society may obtain mortgage debt or may enter into written agreements to obtain loans and credit for expenses.

Summary of Requirement: County agricultural societies may do either or both of the following:

(A) Mortgage their grounds for the purpose of renewing or extending pre-existing debts, and for the purpose of furnishing money to purchase additional land, but if the board of county commissioners has caused money to be paid out of the county treasury to aid in the purchase of the grounds, no mortgage shall be given without the consent of the board. Deeds, conveyances, and agreements in writing, made to and by such societies, for the purchase of real estate as sites for their fairs, shall vest a title in fee simple to the real estate described in those documents, without words of inheritance.

(B) Enter into agreements to obtain loans and credit for expenses related to the purposes of the county agricultural society, provided that the agreements are in writing and are first approved by the board of directors of the society. The total net indebtedness incurred by a county agricultural society pursuant to this division (B) shall not exceed an amount equal to twenty-five percent of its annual revenues.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
<p>a. By reading the permanent file, minutes, cash receipt records, other documents, and by inquiry, determine if any such indebtedness exists.</p> <p>b. If there is mortgage debt, use the sources described in a. above to determine if the board of county commissioners paid county funds to aid in purchasing the grounds. Read a copy of the county commissioners’ resolution to determine if they gave the proper consent for this mortgage debt. Retain a copy of the resolution in the permanent file.</p> <p>c. Loans and Credit²</p> <p>1. If the Society has procured loans and credit for expenses related to the purposes</p>		

² The law authorizing this type of debt did not exist prior to the addition of (B) to Ohio Revised Code Section 1711.13, effective September 26, 2003. Therefore, if any of this type of debt was acquired prior to September 26, 2003 the Agriculture Society shall discharge such debt.

<p>of the county agricultural society, verify these agreements are in writing and were first approved by the board of directors of the society.</p> <ol style="list-style-type: none"> 2. Examine the society’s computation supporting that the total net indebtedness from loans and credit does not exceed twenty-five percent of its annual revenues. 3. <u>For debt issued during the audit period, compare disbursements of the proceeds to the bond documents to determine if the proceeds were spent for purposes for which the bonds were issued.</u> 4. <u>For debt issued during the audit period, read related contracts and summarize provisions applicable to the society, and save in the permanent file. The summary should describe:</u> <ol style="list-style-type: none"> a. <u>Purposes for which the debt was issued.</u> b. <u>Collateral / mortgage</u> c. <u>An amortization schedule for any debt service the society owes to the county.</u> 5. <u>For years in which the society owes debt service, agree payments to the amortization schedule.</u> 6. <u>Determine if a debt footnote describes the purpose, original issue amount, collateral, and an amortization schedule for this debt.</u> 	
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Applicability: County and independent societies		
<p>4. Accounting Compliance Requirement: Ohio Administrative Code section 117-10-01 – Financial reporting and accounting for county agricultural societies.</p> <p>Summary of Requirement: Each county agricultural society and independent agricultural society shall, for financial reporting and accounting purposes, record and report all financial transactions on a fiscal year basis beginning on December 1 and ending November 30. Societies shall record and report all financial transactions in accordance with the <i>Uniform System of Accounting for Agricultural Societies</i>.³ Note: You can view the latest version of this at www.auditor.state.oh.us , under <i>Publications, Local Government Manuals and Handbooks</i>.</p>		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
<ol style="list-style-type: none"> 1. Compare the <i>Uniform System of Accounting for Agricultural Societies</i> requirements with the systems and records the society is using. 2. Determine if: <ol style="list-style-type: none"> 1. The required chart of accounts is used. 2. A cash journal, a receipts ledger, an expense ledger, and an investment ledger are used. 3. The prescribed formats for accounting and reporting information are used (including receipts, purchase orders, vouchers, checks, and bank reconciliations). 		
Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

³ The Auditor of State also requires by rules, that certain public offices follow a prescribed uniform chart of accounts and/or establish a fund accounting system to demonstrate legal compliance, financial accountability and to provide management with information for decision making. These rules are in Chapter 117-2 of the Ohio Administrative Code. As a matter of accountability and internal control, each public office should account for financial activities using an accounting system which demonstrates legal compliance; follows a documented chart of accounts appropriate for its particular activities; and is supported by appropriate subsidiary ledgers/journals. When a public office fails to maintain such an accounting system, auditors should consider whether the failure constitutes a reportable internal control weakness.



Applicability: County and independent societies		
<p>5. Deposit and Investment Compliance Requirement: Ohio Revised Code Chapter 135 – Uniform Depository Act requirements applicable to an agricultural society.</p> <p>Summary of Requirement: See the following current OCS sections:</p> <ul style="list-style-type: none"> • Sections 135.14 and 133.03(A)(1) – Eligible investments for interim monies; section 135.13, maturities. • Sections 135.14 and 133.03(A)(1) – Other Requirements • Section 135.14 – Additional investments allowable for subdivisions other than counties • Section 135.18 (specific collateral) and 135.181 (pooled collateral) – Security for repayment of public deposits • Article XII, Section 5a, Ohio Constitution; Ohio Revised Code Sections 135.21, 135.351, 5705.10 and 5705.131; 1982 Op. Atty Gen. No. 82-031, and 7 CFR Part 210.14(a) – Allocation of interest among funds. • Section 135.03 – Eligible depositories, Sections 135.07 and 135.09 – award of inactive and interim deposits, respectively, Section 135.12 – Designation of depositories • Section 135.22 – Subdivision treasurers must complete annual continuing education programs provided by the Treasurer of State. (OCS Section 7-32) 		
In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Periodic Reviews/Comparisons of Budgeted and Actual Amounts • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
Refer to OCS Chapter 5 and step 32 from Chapter 7 and perform the applicable procedures.		
Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Applicability: County and independent societies

6a. Other Potentially Direct and Material Laws and Regulations: Ohio Revised Code Section 9.833 – Health Care Self Insurance.

Summary of Requirement: This section requires individual, self-insured governments or joint self-insured health-care programs to calculate (i.e., reserve*) amounts required to cover health care benefit liabilities. It also requires programs to prepare a report, within 90 days after the fiscal year-end, reflecting those reserves (i.e., liabilities) and the disbursements made to pay self-insured claims, legal and consultant costs during the preceding fiscal year. This report is not filed with any office, including the Auditor of State. The society should retain it, and should make it available upon request.

An actuary must certify that the amounts reserved are fairly stated in accordance with sound loss reserving principles. The actuary must be a member of the American Academy of Actuaries.

Individual governments subject to this requirement must establish an internal service fund to account for this activity.

* “Reserved” means liabilities measured in accordance with accepted actuarial principles.

Note: Auditors should also refer to Auditor of State Bulletin 2001-005.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
<p>a. Secure a copy of the annual report:</p> <ol style="list-style-type: none"> 1. Determine if the government established an internal service fund to account for this activity. 2. Determine whether a report presenting the actuarially-measured liabilities and disbursements during the year was obtained within 90 days of fiscal year end. 3. Inspect the actuary’s certificate that the amounts reserved conform with accepted loss reserving standards. <p>b. Review the actuary’s report, and perform other procedures to determine whether information the client submitted to the actuary is supported by the client’s accounting or other applicable records. (This step (i.e., testing information the client provides to the actuary) may be necessary to comply with Statement on Auditing Standard No. 73, <i>Using the Work of a Specialist</i>. SAS 73 (AU 336) is applicable when the actuary’s liability calculation is accrued as a GAAP liability or presented in a cash-basis entity’s notes.)</p> <p>c. Determine whether the actuary’s opinion language (including the scope of the</p>		

<p>work) generally complied with the example described in the <i>Actuarial Opinions</i> section of the Auditor of State Bulletin 2001-005.</p> <p>d. Consider whether any qualification in the actuary’s report affects the financial statement opinion or indicates noncompliance with ORC 9.833.</p> <p>e. Determine if a cash-basis government’s audited statements disclose self-insurance activity based on the example disclosure in Bulletin 2001-005. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.)</p>	
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Applicability: County and independent societies

6b. Other Potentially Direct and Material Laws and Regulations: : Ohio Revised Code Section 2744.081 – Liability Self Insurance

Summary of Requirement: This section requires joint self-insurance programs (such as government self-insurance pools) insuring against judgments, settlement of claims, expense, loss and damages that arise, or are claimed to have arisen, from an act or omission of the subdivision or any of its employees and to indemnify or hold harmless the subdivision’s employees, to reserve* amounts to cover potential costs. It also requires the program to prepare a report, within 90 days after the program’s fiscal year-end, reflecting those reserves (i.e., liabilities) and the disbursements made to pay self-insured claims, legal and consultant costs during the preceding fiscal year. This report is not filed with any office, including the Auditor of State; it should be retained by the government and be made available upon request.

An actuary must certify that the amounts reserved are fairly stated in accordance with sound loss reserving principles. The actuary must be a member of the American Academy of Actuaries.

* “Reserved” means liabilities measured in accordance with accepted actuarial principles.

Note: Auditors should also refer to Auditor of State Bulletin 2001-005.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
Suggested Audit Procedures – Compliance (Substantive) Tests:		W/P Ref.
<ol style="list-style-type: none"> a. Secure a copy of the pool’s (or joint government) annual report: <ol style="list-style-type: none"> 1. Determine whether a report presenting the actuarially-measured liabilities and 2. Inspect the actuary’s certificate that the amounts reserved conform with accepted loss reserving standards. b. Review the actuary’s report, and perform other procedures to determine whether information the client submitted to the actuary is supported by the client’s accounting or other applicable records. (This step (i.e., testing information the client provides to the actuary) may be necessary to comply with Statement on Auditing Standard No. 73, <i>Using the Work of a Specialist</i>. SAS 73 (AU 336) is applicable when the actuary’s liability calculation is accrued as a GAAP liability or presented in a cash-basis entity’s notes.) c. Determine whether the actuary’s opinion language (including the scope of the work) generally complied with the example described in the “Actuarial Opinions” section of Auditor of State Bulletin 2001-005. 		

<p>d. Consider whether any qualification in the actuary’s report affects the financial statement opinion or indicates noncompliance with ORC 2744.081.</p> <p>e. Determine if a cash-basis government’s audited statements disclose self insurance activity based on the example disclosure in Bulletin 2001-005. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.)</p>	
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>	

Applicability: County and independent societies

6c. Other Potentially Direct and Material Laws and Regulations: Ohio Revised Code Sections 3769.01, 3769.04, and 3769.06 – Horse-racing permit required, application for permit, and renewal of permit.

Summary of Requirement: No person, association, corporation, or trust shall hold, conduct, assist, or aid and abet in holding conducting any meetings, at which horse racing is permitted for any stake, purse, or award, unless such person, association, corporation, or trust secures a permit to conduct a horse-racing meeting.

Any person, associations, corporation, or trust desiring to hold or conduct a horse-racing meeting, wherein the pari-mutuel system of wagering is allowed, shall apply to the state racing commission (commission) for a permit. Each application, accompanied by a permit fee of ten dollars and a cash bond, certified check, or bank draft, shall be filed with the commission at least five days prior to the first day of each horse-racing meeting. The permit shall be signed by its president or vice-president and attested by the secretary or assistant secretary under the seal of the seal of the association, trust, or corporation, if it has a seal, and shall also be verified under oath by one of the officers signing the application.

Each permit issued under this section to hold or conduct a horse-racing meeting shall be issued for one year from the first day of January of the year for which it is issued. The holder of such permit shall be entitled to renewal of the permit upon application to the commission for a renewal.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
<ul style="list-style-type: none"> • Policies and Procedures Manuals, including copies of the applicable sections of Ohio Revised Code section 3769 • Knowledge and Training of Personnel • Tickler Files • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		

Suggested Audit Procedures – Compliance (Substantive) Tests:	W/P Ref.
Examine the required permit. Determine that it was current at the time of the races.	

Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Applicability: County and independent societies

6d. Other Potentially Direct and Material Laws and Regulations: Ohio Revised Code Section 3769.082 – Ohio Fairs Fund; distribution.

Summary of Requirement: Ohio Fairs Fund moneys shall be distributed by the director of agriculture annually, on or before the first day of March, as follows:

- To each county agricultural society and to each independent agricultural society conducting an annual fair, a prescribed percentage of Ohio Fairs Fund money, to be allocated for general operations.
- To each county agricultural society and each independent agricultural society conducting horse races (harness races or running races) during their annual fair, the sum of four thousand dollars, to be used as purse money for horse races in accordance with this section, and the additional sum of one thousand dollars to each such county agricultural society and independent agricultural society to be used for race track maintenance and other expenses necessary for the conduct of such horse races or colt stakes.
- A grant of four thousand dollars shall be available to each county or independent agricultural society for the conduct of four stake races for two-year-old and three-year-old colts and for four stake races for two-year-old and three-year-old fillies at each gait of trotting and pacing, provided, that at least five hundred dollars shall be added to each race. Exclusive of entrance fees and the excess moneys provided below, the grant of four thousand dollars for purse money provided, a sum not to exceed three thousand dollars may be used by a society to reach the required purse for each of the eight stake races. Such stake races shall be distributed as evenly as possible throughout the racing season.
- In the event that the moneys available on the first day of March of any year are less than that required above, the amount distributed from the Ohio Fairs Fund may be different than the amounts reflected above.
- County agricultural societies and independent agricultural societies conducting stake races shall, on or before the first day of November in the year immediately preceding the year in which the moneys are to be distributed, make application for participation in such to the director of agriculture on forms provided by the director.
- Distribution of moneys for stake races shall not be paid to county agricultural societies and independent agricultural societies that conduct on their race courses automobile or motorcycle races during any year for which such distribution is requested, unless such automobile or motorcycle races are not conducted during the days and nights that horse racing is being conducted at such fair.
- Any county agricultural society or independent agricultural society which uses the moneys distributed under this section for any purse other than that provided in this section is not eligible to receive distribution from the Ohio Fairs Fund for a period of two years after such misuse of such moneys occurs.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
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<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of Personnel • Ohio Department of Agriculture Monitoring • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
<p>Suggested Audit Procedures – Compliance (Substantive) Tests:</p>		<p>W/P Ref.</p>
<p>a. <u>Determine whether the society received Ohio Fairs Fund in the State and Local Fund, and how much was restricted for racing purses and track maintenance according to the above sections.</u></p> <p>b. <u>Compare amounts distributed for race purses and track maintenance to the amounts restricted to these purposes, and compute whether the amounts disbursed at least equaled the restricted amounts.</u></p>		
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Applicability: County and independent societies

7a Compliance Requirement : Society policies;– Establishment of policies, restrictions on use, prohibitions for cell phones, and government-owned vehicles and equipment (e.g., computers, internet and phone usage, etc.).

Summary of Requirements: Most governmental entities have the authority to provide cell phones, for use by authorized employees and to provide government-owned vehicles and equipment (e.g., computers, internet and phone usage, etc.) for use by authorized users. The use of these items should be specified in a policy the society’s governing body adopts. These policies should, at a minimum, identify authorized users, guidelines for allowable use/ purchases, method of reimbursement (if personal use is allowed), specific unallowable uses, reporting, monitoring of use by appropriate levels of management, and other guidelines the legislative body deems appropriate.⁴

Sample Questions and Procedures

Steps 1 – 5 below should normally only apply when the society adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --5. We can apply step 6 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient. Step 7 normally requires inquiry.

1. Obtain copies of existing policies for cell phone, and government-owned vehicles and equipment.
2. Who is responsible for monitoring the usage of these items?
3. If the policies were established by the legislative body, obtain a copy of the resolution or ordinance. Include a copy or abstract of the policy in the permanent file.
4. Review the established policies. Obtain and scan the list of authorized users.
5. Include copies of the applicable policies in the working papers (Permanent File).
6. Scan a few cell phone transactions to determine whether use was by an authorized user and within the guidelines established in the policy. In addition, include usage by the President, Secretary/Treasurer, and other board members in the review.
7. Inquire whether the entity’s monitoring procedures identified any misuse. Determine whether the employee was notified of the improper use or was the matter otherwise appropriately corrected. (Note: The results from this inquiry may affect our assessment of the control environment.)
8. Any exceptions to the established policies should be communicated to management and to the legislative body. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the legislative body.

Government Personnel Interviewed	Documents Examined or Observations Made	W/P
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⁴ Auditors and governments may wish to refer to the Auditor of State’s *Best Practices* for discussions about and examples of cell phone policies (Spring, 2004); and procurement card and vehicle policies (Winter, 2004). You can read *Best Practices* at www.auditor.state.oh.us under *Publications*.

and Dates:	to Corroborate Inquiry:	Ref.
Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):		

Applicability: County and independent societies
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7b. Compliance Requirement: Ohio Revised Code Section 1711.131 – Credit card usage.

Summary of Requirement:

- (A) The board of directors of a county agricultural society or an independent agricultural society may authorize by resolution an officer or employee of the agricultural society to use a credit card held by the board to pay for expenses related to the purposes of the agricultural society. If a board elects to authorize the use of a credit card held by the board as described in this section, the board first shall adopt a policy specifying the purposes for which the credit card may be used.
- (B) An officer or employee of an agricultural society who makes unauthorized use of a credit card held by the society's board of directors is personally liable for the unauthorized use.
- (C) An officer or employee who is authorized to use a credit card held by the board of directors of an agricultural society and who suspects the loss, theft, or possibility of unauthorized use of the credit card immediately shall notify the board in writing of the suspected loss, theft, or possible unauthorized use. The officer or employee may be held personally liable for not more than fifty dollars in unauthorized debt incurred before the board receives the notification.
- (D) The misuse by an officer or employee of an agricultural society of a credit card held by the society's board of directors is a violation of section 2913.21 of the Revised Code.

Sample Questions and Procedures

Steps 1 – 5 below should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --5. We can apply step 6 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient. Step 7 normally requires inquiry.

1. Obtain copies of existing policies for credit cards and purchasing cards.
2. Who is responsible for monitoring their usage?
3. If the policies were established by the legislative body, obtain a copy of the resolution or ordinance. Document the approval in the permanent file.
4. Review the established policies. Obtain and scan the list of authorized users.
5. Include copies of the applicable policies in the working papers (Permanent File).
6. Scan a few credit card / purchasing card transactions to determine whether use was by an authorized user and within the guidelines established in the policy. In addition, include usage by the President, Secretary/Treasurer, and other board members in the review.
7. Inquire whether the entity's monitoring procedures identified any misuse. Determine whether the employee was notified of the improper use or was the matter otherwise appropriately corrected. (Note: The results from this inquiry may affect our assessment of the control environment.)

<p>8. <u>Any exceptions to the established policies we note should be communicated to management and to the legislative body. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the legislative body.</u></p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

Applicability: County and independent societies

7c. Compliance Requirement: Ohio Revised Code Sections 117.38, 901.06, and 1711.05 – Filing financial reports and Publication of treasurer’s account.

Summary of Requirement: Prior to the first day of December of each year, the director of agriculture shall set a date in January of the following year, on which the director shall meet with the presidents or other authorized delegates of agricultural societies which conduct fairs in compliance with sections 1711.01 to 1711.35, inclusive, of the Revised Code, and regulations of the department of agriculture. Each society shall deliver its annual report to the director at or before the January meeting. [RC 901.06]

Cash-basis entities must file annual reports with the Auditor of State within 60 days of the fiscal year end. Since the Auditor of State has not prescribed a form for the report, the society shall file an annual report using the format as suggested in the handbook titled, “Uniform System of Accounting for Agricultural Societies.” Any public office which does not file the report by the required date shall pay a penalty of twenty-five dollars for each day the report remains unfilled, not to exceed seven hundred fifty dollars. [RC 117.38]

Every county agricultural society annually shall publish an abstract of its treasurer’s account in a newspaper of the county and make a report of its proceedings during the year. [RC 117.38 & 1711.05]

Sample Questions and Procedures

1. Trace selected totals from the annual report to the underlying accounting system. If we use the annual report as a trial balance, we will satisfy this requirement by completing the mandatory Trial Balance steps from the financial audit program. If the report is significantly deficient, we should cite ORC 117.38 for filing an incomplete or misleading report.
2. Search LGS’s annual report file to determine whether the government filed an annual report with our office.
3. Inquire to determine the date the report was filed with the Director of Agriculture.

You can limit the following step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

4. Please show me a proof of publication for the annual notice.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Applicability: County and independent societies

7d. Compliance Requirement: Ohio Revised Code Section 9.38 – Deposits of public money.

Summary of Requirement: Public money must be deposited with the treasurer of the public office or to a designated depository on the business day following the day of receipt. Public money collected for other public offices must be deposited by the first business day of the week following the date of collection.

For example, a government employee other than a fiscal officer collecting funds and issuing a receipt must deposit the funds with the government’s fiscal officer on the business day following the day of receipt. As an alternative to depositing the funds with the government’s fiscal officer, the employee instead may deposit funds with the government’s designated depository on the business day following the day of receipt.

If the amount of daily receipts does not exceed \$1,000 and the receipts can be safeguarded, public offices may adopt a policy permitting their officials who receive this money to hold it past the next business day, but the deposit must be made no later than 3 business days after receiving it. If the public office is governed by a legislative authority (Ag Society) only the legislative authority may adopt the policy. The policy must include provisions and procedures to safeguard the money during the intervening period. If the amount exceeds \$1,000 or a lesser amount cannot be safe guarded, the public official must then deposit the money on the next business day.

Note: This section does not require that the fiscal officer deposit receipts with the designated depository on the business day following the day of receipt, or any other specified time. However, if the fiscal officer is holding significant amounts of cash and checks for an unreasonable period, an internal control recommendation should be made.

Sample Questions and Procedures

Note: To enhance efficiencies, we should integrate the tests below with the financial audit tests. We should only cite noncompliance if we determine significant amounts of cash are not deposited within the required time frames.

1. Systems documentation should include collection points receiving significant amounts of cash.
2. When testing cash collections, document the date collected vs. the date deposited to the CFO or the date the “collector” deposited to a designated depository.
3. Read any new contract/agreement between the Board and its long distance carrier. If incentives are granted, review the accounting treatment of the incentives. Determine if phone contract monetary refunds and or rebates were paid into the treasury in accordance with ORC 9.38. (We can limit step 3 to every other audit, unless we have reason to believe there may be issues with this.)

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable

Applicability: County and independent societies
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7e. Compliance Requirement: Ohio Revised Code Sections 121.22 – Meeting of public bodies to be open, exceptions, and notice.

Summary of Requirement: All meetings of any public body are declared to be **public meetings** open to the public at all times. A member of a public body must be present in person at a meeting open to the public to be considered present or to vote and for determining whether a quorum is present. The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions.

Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of any emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media.

The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

- (a) The appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or officials, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official licensee, or regulated individual requests a public hearing;
- (b) The purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal private interest is adverse to the general public interest.
- (c) Conducting conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action.
- (d) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
- (e) Matters required to be kept confidential by federal laws or rules or state statutes.
- (f) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing or avoiding prosecution for a violation of the law.

A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized above.

Sample Questions and Procedures

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

1. How does your entity notify the general public and news media of when and where meetings are to

be held? 2. Determine whether the minutes of public meetings are promptly recorded and available for public inspection. 3. Review the minutes and determine if executive sessions are only held at regular or special meetings. 4. Document that executive sessions are only held for the purposes outlined above. 5. Determine whether all formal actions of the governing board are adopted only in open meetings.		
Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments): 		

Applicability: County and independent societies

7f. Compliance Requirement: Ohio Revised Code Section 149.43 – Availability of public records

Summary of Requirement: “Record” for purposes of the public records law, means any document, device, or item, regardless of physical form or characteristic, created, received by, or coming under the jurisdiction of any public office which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office. “Public record” means any record that is kept by any governmental unit, including, but not limited to, state, county, city, village, township, and school district units, except medical records, records pertaining to adoption, probation, and parole proceedings, trial preparation records, confidential law enforcement investigatory records, records pertaining to actions under Section 2151.85 Ohio Revised Code, records listed in Section 3107.42(A), Ohio Revised Code, and records the release of which is prohibited by state or federal law.

All public records shall be promptly prepared and made available to any member of the general public at all reasonable times during regular business hours for inspection. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, governmental units shall maintain public records in such a manner that they can be made available for inspection.

Sample Questions and Procedures

You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.

Ascertain if responsible personnel are aware of the above requirements and have implemented local policies and procedures regarding:

1. What records are made available?
2. Times when records may be reviewed.
3. Costs for copies to be made.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):

Applicability: County and independent societies
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7g. Compliance Requirement:

- Internal Revenue Code (IRC) Chapter 26 [26 U.S.C.] - Collection of Income Tax at Source on Wages; 26 U.S.C. §3401 through §3406:
 - §3401: Definitions;
 - §3402: Withholding of income tax from wages;
 - §3403: Employers liable for payment of the tax deducted and withheld;
 - §3404: Return of amount deducted and withheld shall be made by appropriate officer of the governmental employer;
 - §3405: Withholding on pensions and annuities;
 - §3406: Backup withholding
- 26 U.S.C. §3102(a): Deduction of [Medicare] tax from wages;
- 26 U.S.C. §132: Exclusion of certain fringe benefits from gross income;
- Internal Revenue Regulations (26 CFR):
 - §1.61-21: Taxation of fringe benefits;
 - §1.6041-1: Reporting of income aggregating \$600 or more [i.e., 1099s-MISC] ⁵;
 - §1.6041-2: Reporting of wage income aggregating \$600 or more [i.e., W-2s];
 - §1.6041-3: Various exclusions;
 - §1.6041-6: Time and place for filing forms 1099 and 1096;
 - §1.6050E-1: Income tax refund reporting.
- Ohio Rev. Code §5747.06 - Collection of Ohio income tax at source.

Various local ordinances require withholding on wages earned in the particular municipality. These should be consulted for the requirements.

Summary of Requirement: These sections of the various tax codes require the employing government to withhold federal, state, and local income and employment-related taxes (such as Medicare). They also require the government to report those tax matters to the appropriate tax authorities and to the recipients. Certain of these sections require consideration of whether employer-provided “fringe” benefits, such as use of government automobiles for private purposes, constitute taxable income to be reported and withheld upon.

Note: See Ohio Compliance Supplement Introduction page 37 regarding IRS referrals.

Sample Questions and Procedures

- a. What policies and procedures do you have to ensure that the [Entity] is withholding federal, state, and local income taxes as required?
- b. How do you ensure that the withholdings are being transmitted periodically to the appropriate jurisdictions as required? Please show me a sample of your tax filing reports. Please show me how these agree with your payroll records.

⁵ All payments to attorneys of \$600 or more that are not otherwise reported (e.g., on form W-2 for attorneys who are employees) must be reported on form 1099-MISC. The exemption for payments to corporations no longer applies to payments for legal services.

<p>c. Do you provide any of your employees with taxable fringe benefits, such as the use of a government owned vehicle, or an auto or uniform allowance? If so, how do you determine the amounts of the benefits to be reflected in the affected employees' Forms W-2? Please show me 1 or 2 employees' W-2s that reflect these amounts.</p> <p>e. Did your government pay any independent contractor (other than a corporation) \$600 or more during this year? If so, please show me a few Forms 1099 that were issued.</p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

<div style="border: 1px solid black; display: inline-block; padding: 2px 5px; margin-bottom: 5px;"> Applicability: County and independent societies </div>		
<p>7h. Compliance Requirement: Ohio Revised Code Section 5709.10 – Exemption of County Fairground from Real Estate Tax.</p>		
<p>Summary of Requirement: Property used as a county fairground that is owned by the board of county commissioners or by a county agricultural society shall be exempt from taxation.</p>		
<p>Sample Questions and Procedures</p>		
<p style="color: red;">You can limit the following steps to every other audit, <u>unless</u> the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.</p>		
<p>a. How do you ensure the Society does not pay real estate tax?</p>		
<p>b. Verify the Society did not pay real estate tax by scanning the disbursements included in Account # 7480.</p>		
<p>Government Personnel Interviewed and Dates:</p>	<p>Documents Examined or Observations Made to Corroborate Inquiry:</p>	<p>W/P Ref.</p>
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p>		

<div style="border: 1px solid black; display: inline-block; padding: 2px 5px; margin-bottom: 10px;"> Applicability: County societies </div> <p>8i. Compliance Requirement: Ohio Revised Code Section 1711.24 – Insurance on county society's buildings.</p> <p>Summary of Requirement: The board of county commissioners of a county in which there is a county agricultural society shall insure the buildings on the grounds of such society for the benefit of such society.</p>		
Sample Questions and Procedures		
<p style="color: red;">You can limit the following steps to every other audit, <u>unless</u> the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.</p> <ol style="list-style-type: none"> a. Scan the policy covering grounds and buildings. b. Judge whether the amount of the insurance adequate considering the value of the buildings and contents. If you deem it inadequate, discuss with management and determine whether we should recommend they consider increasing their coverage. 		
Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.
<p>Audit Implications (adequacy of the system and controls, and the direct and material effects of noncompliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</p> 		