

# Best Practices

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## Going Digital

As part of our continuing efforts to “skinny down” government and do more with less, we are changing the way we deliver our Best Practices newsletter. This will be the last issue of the newsletter as you have known it.

In the coming months, we will be “going digital” with our distribution of information to our clients, partners and the public. You will now receive news, updates

and informative articles from us online through e-mail alerts and in real time, rather than in quarterly installments.

We understand there are some who worry about changing to a digital-only format, but we are building flexibility into the process so you can still receive information in a format that works for you. Updates and articles will be sent directly to your e-mail. If you want to access the content on the internet, you will find it on our website. And if it is important that you be able to print out the material for later use, a printer-friendly format also will be available.



As we transition to a digital format, we need to update and expand our e-mail database. To continue to receive information from the Auditor of State's Office, please provide us your e-mail address by signing up on the home page of our website at <http://www.auditor.state.oh.us>. Please enter the code you find on the mailing label of this newsletter. This will help us avoid duplication of records in our database.

We are excited to start sharing our news with you more frequently, and we hope you find that it better meets your information needs and preferences. Printing and mailing *Best Practices* is simply not a cost effective way to communicate in our digital age. Not only will this save significant tax dollars during a time of limited resources, but it will provide you with information in a more convenient, flexible and timely manner.

A handwritten signature in blue ink that reads "Dave Yost".

## Ohio Ethics Law *Can I Do That?*

By Susan Willeke, Ohio Ethics Commission

Public servants at every level of government, state or local, serve a vital role to productive and ongoing governance. Whether a public official or employee is full-time/ part-time or has been hired, elected, or appointed, all of these individuals should be aware that they are covered by the Ohio Ethics Law. While the Ethics Law and related statutes cover a wide variety of activities, this article

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## Ohio Ethics Law: *Can I Do That?*

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will focus on conflicts of interest, gifts, entertainment, and other things of value.

### **Conflict of Interest:**

The term “conflict of interest” is frequently used and often misunderstood. The basic assumption that underlies the law is that citizens deserve public servants who advance the public interest rather than their personal interests or the interests of closely related parties.

*Simply put, a public official or employee has a “conflict of interest” when her ability to be an objective decision-maker is impaired by her own interests, or the interests of family members or business associates.*

A conflict of interest is not, in and of itself, illegal. In fact, conflicts are normal, because public servants have families and friends, and may have businesses, professions, investments, property interests, and other connections to their communities. Any of these connections could result in a conflict of interest for the official. The law doesn’t prohibit the conflict; it prohibits the official from acting on the conflict.

The law prohibits a public official or employee from using her public position to secure “anything of

value” that could have a substantial and improper influence upon her in the performance of public duties. For example, if a finance officer is required to review work done by a company owned by her father, the finance officer is faced with a conflict of interest.

Because the finance officer’s father has a definite and direct interest in decisions about his company’s work, the Ethics Law would prohibit the finance officer from participating in matters affecting the company. All matters related to the company would have to be handled by someone at the same or a higher level than the finance officer. The finance officer can’t remove the conflict by assigning the project to a subordinate employee. For that reason, it may be necessary for the public agency to decide who, other than the finance officer, will perform these duties.

### **Gifts, Entertainment, and Other Things of Value:**

Imagine a beautiful spring day—cloudless blue skies, low humidity,

a light breeze—perfect weather. Perfect golf weather, that is. When preparing for a day of fun and relaxation, the last thing that is likely to be on a committed golfer’s mind is the Ethics Law. If the golfer is also a public servant, however, he should devote a few minutes to the topic before teeing up.

The Ethics Law prohibits a public official from soliciting or accepting “anything of value,” if the thing of value could have a substantial and improper influence on him in the performance of public duties.

“Anything of value” is defined in state law to include, essentially, anything with any monetary value. Gifts, golf outings, theater or sporting event tickets, vacations, and jewelry are all items that the Ethics Commission has specifically identified as things of substantial value.

When a person chooses to enter public service, he must recognize that some gifts and entertainment

## **Donations to Government**

It should be noted that the Ohio Ethics Commission has explained in several Advisory Opinions that the General Assembly has expressed an evident intent that the State be permitted to receive donations from outside sources.

For example, in one opinion, the Commission held that a resident of the Ohio Veterans Home may make a gift, bequest or donation to the facility provided that the resident

makes the transaction voluntarily.

Therefore, a state agency is not prohibited from accepting donations from vendors or regulated parties as long as public officials or employees do not personally benefit from the donation or the donations are not given to pay the expenses of public officials or employees. This same opinion applies to local government entities as well.

will be prohibited. If an official is offered a gift, golf outing, entertainment, or other item of substantial value, the official needs to identify the giver or source to determine whether it is acceptable. Individuals and other parties that are doing or seeking to do business with, interested in matters before, or regulated by a public agency are improper sources of substantial gifts and entertainment to the agency's public servants.

For example, if a county official's staff is responsible for approving a contract for the county, the county official and employees would be prohibited from accepting anything of substantial value from the contracted company. If a company employee were to invite the public servants to golf at an exclusive club, the public servant would have two (lawful) options:

- (1) decline the offer; or
- (2) pay the fair market value for the green fees, cart rental, and any meal or beverages consumed.

Even if the public servant can accept a gift, there may still be requirements under the Ethics Law.

If the official is an elected city or county official, or serves in a state position for which financial disclosure filing is required, he is required to disclose all sources of gifts valued at more than \$75. If the public servant's best friend, who has no ties to the public agency, gives the public servant two tickets to a ballgame, the public servant is required to disclose the

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# skinnyOhio.org

## A Resource for Smarter, Streamlined Government

SkinnyOhio.org is a new tool in our effort to "skinny down" government. Created by Auditor of State Dave Yost, the Web site shares ideas and best practices from performance audits conducted across Ohio and nationally.

Performance audits are a proven resource in the effort to drive efficient and effective government. The Auditor of State's office has conducted hundreds of performance audits and has made thousands of recommendations to governments of every shape and size.

As an online clearinghouse, skinnyOhio.org gathers the best practices in critical areas gleaned from these performance audits and makes them available online so that a wider audience may benefit.



Auditor Dave Yost unveils skinnyOhio.org



These measures not only lead to cost savings, but position the entities that implement them to plan strategically for the future and better adjust to budget challenges, while continuing to meet their goals and the expectations of their citizens.

*"The people of Ohio deserve skinny, accountable government," Auditor Yost said. "Everybody talks about lean government, but it's harder to do than to say. This website will provide the "how" for local officials."*

The content on skinnyOhio.org ranges from staff and facility planning to vehicle fleet operations and maintenance to financial forecasting, energy management and technology. The site will be regularly updated with the latest news and information concerning performance audits, shared services and cost-saving initiatives. ■



# Local Government Toolkit

## A New Way of Doing Business for Ohio

By Kevin Holtsberry – Public Affairs Staff Writer

Ohio's struggling economy has meant financial distress and hard choices for many local governments. In reality, there simply is not enough funding at the state or local level to keep doing business the same way it has always been done.

Recognizing this, Auditor of State Dave Yost introduced a set of proposals to the state operating budget to provide local governments with new tools that offer greater flexibility in addressing their financial challenges. The proposals, known collectively as the Local Government Stabilization Toolkit, were included in the biennial operating budget (House Bill 153) passed by the General Assembly last month and signed by the Governor.

The new law streamlines and simplifies the process for townships, municipalities and villages who may want to voluntarily

merge. It also strengthens Ohio's fiscal warning and repair process to allow earlier intervention and assistance when local governments are in fiscal distress.

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*"Ohio is facing what may be its most challenging fiscal environment in a generation," said Auditor Yost. "State and local governments need to find ways to provide skinnier, smarter government for the people they serve. The inclusion of the toolkit in the budget is an important first step."*

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## **Voluntary Mergers**

Prior to the changes proposed in House Bill 153, laws governing the process for merging local governments were too complex and cumbersome; in some cases, mergers were not even allowed.

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*The toolkit removes existing barriers and streamlines the process to help local governments ready to build stronger, better communities.*

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The legislation allows two or more neighboring townships to voluntarily join forces. Previously, townships seeking to merge had to give up the township form of government and partner with a village or city. Citizens were often unhappy about having to give up their township identity.

The new process is voluntary and initiated at the local level. Most importantly, township leaders can pick their own partners, including other townships, and have the flexibility to decide what works best for their community. Trustees can place the question of whether to merge on the ballot, or the process can be initiated by the people.

Provisions also were added that streamline the merger process for townships to merge with municipalities and villages or cities to merge into townships.

## **Fiscal Distress – Earlier Intervention**

Understanding that financial problems are hard to fix the longer they go undetected, the new law creates a “fiscal caution” designation for local governments in fiscal distress to allow for earlier detection and to offer assistance to those entities that need it. Guidelines for making this determination will be developed by the staff in the Auditor’s Local Government Services Section.

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*The bill also streamlines the process for overseeing governments in “fiscal watch” and “fiscal emergency,” and requires specific actions and timelines to insure local governments are taking the necessary steps toward financial recovery.*

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Prior to the enactment of these provisions, it was possible for a fiscal crisis to linger with little or no progress and no real consequences for failing to take action.

## **Financial Oversight & Planning Commissions**

In current law, most local governments in fiscal emergency are required to form a financial oversight and planning commission comprised of state and local leaders.

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*The purpose of the commission is to create a financial recovery plan and implement the necessary steps to return the entity to good fiscal health.*

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For local governments with populations of less than 1000, however, the Auditor of State will now serve as the sole financial supervisor. Under this new provision, local leaders drive the process by developing their own financial recovery plan, but state auditors will be available to assist the local community on a day-to-day basis. ■



# The Ohio Performance Team:

## OPTimizing Performance in Ohio Government

Governor Kasich signed Senate Bill 4, the performance audit legislation championed by Auditor of State Dave Yost, into law on April 5th – effectively providing the Auditor of State's Office with the extraordinary opportunity to fundamentally change the way Ohio government does business. The legislation requires that the office conduct performance audits of state agencies.

To meet this new legislative responsibility, Auditor Yost has created a new, innovative team to assist him with the task of ensuring the best use of limited tax dollars by identifying waste, inefficiencies and duplication of services throughout state government. The Ohio Performance Team (OPT) will conduct an in-depth review of a state agency to help “skinny down” operations and increase accountability.

This unique section will be composed of twelve staff members, two Six Sigma Master Black Belt executives and four interns. With a blend of government and industry backgrounds and in-depth experience in research, operations and management, the team will use

a collaborative approach - but one that is objective and data driven. Six Sigma methodologies will be one of the many tools used to drive



*Governor Kasich signed Senate Bill 4, the performance audit legislation championed by Auditor of State Dave Yost, into law on April 5th*

innovation and cultural change; within the team, the auditor's office and the client agencies they engage.

The scope of each performance audit is open and can encompass the whole agency or just one specific component. Every audit process, however, involves conducting the necessary research; analyzing the findings; and making actionable recommendations based on the data.

Unlike traditional audits which look backward on activity in the past, OPT functions more like a consulting group in its proactive, forward focus. OPT will seek to develop recommendations that provide detailed steps toward improving performance, steps that can generate real change within the organization and offer clear benefits for the ultimate customer – the taxpayer.

OPT will help create savings of state resources and promote efficiencies to make Ohio more attractive for employers to create jobs. In these difficult economic times, a culture-change in government is vital to Ohio's long-term fiscal health. ■

### What is Six Sigma?

Lean Six Sigma is an initiative with a strong track record of success in both private and public sectors focused on providing increased value to customers through improved products, processes and services.

Six Sigma utilizes statistical information and analysis to measure and improve an agency

or department's operational performance. The resulting progress leads to vast improvement in efficiencies, employee morale and quality of service.

The Auditor of State's office is incorporating Six Sigma techniques into its daily operations as it, too, works toward greater productivity and efficiency.

## Ohio Ethics Law: *Can I Do That?*

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friend as a gift source even though the gift is not illegal.

Nominal or very inexpensive gifts such as a coffee mug, tin of popcorn or t-shirt are not considered substantial under the law. Therefore, while minor gifts such as these are not prohibited by the statute, some public servants may still choose to decline them to avoid even the appearance of impropriety.

*Note that gift cards must also be scrutinized to determine whether or not they are substantial. Substantial gift cards must be refused.*

While gift cards of lesser worth may not be considered substantial under the Ethics Law, a public servant should be advised of the appearance of accepting a gift that is essentially cash.

These are just a few of the restrictions within the Ethics Law and related statutes. The examples are general, and may seem obvious, but all are based on cases that have been referred to the Ethics Commission. If you have questions about the law, or would like specific guidance or an advisory opinion, please visit our Web site [www.ethics.ohio.gov](http://www.ethics.ohio.gov) or contact the Ohio Ethics Commission at (614) 466-7090. ■

## L.E.A.P Fund Making Performance Audits Affordable for Local Governments

The current budget challenges make performance auditing particularly attractive as governments struggle to make ends meet. However, the cost of these audits can be prohibitive.

With this in mind, Auditor of State Dave Yost worked with the legislature to create the Leverage for Efficiency, Accountability and Performance Fund (LEAP Fund), a \$1.5 million fund that advances the cost of a performance audit to entities that might otherwise not be able to afford to have one conducted. Costs will be repaid the following year from the savings reaped from the audit's recommendations and sown again into new performance audits. The LEAP Fund became available after the passage of Senate Bill 4, signed by Governor Kasich on April 5, 2011.

The first six recipients of LEAP funding were announced this month:

- City of Chardon
- Clark County Auditor's Office
- City of Findlay
- City of Fostoria
- City of Salem
- Washington County

A second round of LEAP funds will be awarded in the second half of this fiscal year. Other applications received in this first round will be reviewed at that time.

All applications are reviewed and ranked by a selection committee comprised of one representative each from the Audit Division, Performance Audit Section and Local Government Services Section. Applications are ranked based on the applicant's responses to a set of questions to help determine where LEAP funds may have the greatest impact.

All pertinent information concerning the LEAP Fund is posted on the Auditor of State's website at [www.auditor.state.oh.us/leap](http://www.auditor.state.oh.us/leap). The Auditor of State's office looks forward to working side-by-side with more local governments and school districts, assisting where we can to achieve skinnier, smarter government for the citizens of Ohio. ■



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