THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

BUREAU OF INSPECTION AND SUPERVISION
OF PUBLIC OFFICES CIRCULAR

FURTHERANCE OF JUSTICE FUND

Section 325.12, R.C.
Section 325.071, R.C.

TO: ALL COUNTY PROSECUTORS
ALL COUNTY SHERIFFS
ALL COUNTY/TOWNSHIP STATE EXAMINERS
ALL COUNTY AUDITORS
ALL PRESIDENTS OF COUNTY COMMISSIONERS

THIS CIRCULAR SUPERSEDES CIRCULAR NO. 81-1 DATED MARCH 19, 1980, AND WILL BECOME EFFECTIVE JANUARY 1, 1982.

It has been brought to our attention that there is a need to clarify the position of the Bureau of Inspection and Supervision of Public Offices pertaining to the use of the Furtherance of Justice Funds and additionally to prescribe the necessary accounting procedures to be maintained. Accordingly, the following guidelines are hereby established:

1. The funds may not be used for personal expenses of the prosecutor, sheriff or employees of the prosecutor or sheriff. This is, of course, basic, but emphasis must still be placed on this point.

2. Monies in an F.O.J. fund may be used for any expenses incurred in the performance of official duties and in the furtherance of justice unless authority exists for the use of appropriated monies for such purpose and money is in fact available to the credit of a proper line--item account, appropriated and unencumbered.

   The prosecuting attorney or sheriff is not required to request funds in his regular budget or at any, other time as a condition precedent to the use of F.O.J. funds and disapproval by the county commissioners is likewise not a condition precedent to the use of F.O.J. funds.

   Circumstances may require that the expenditure be made from the F.O.J. fund prior to completion of the procedures necessary for the expenditure of appropriated and unencumbered monies. Under such circumstances the expenditure may be made from the F.O.J. fund and reimbursed from the normal appropriation account at a later date if monies are still available and unencumbered. The reimbursement expenditure from the appropriation account is subject to the requirements of Section 5705.41, Revised Code.

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3. The use of the funds must be documented and each expenditure itemized. Documentation of each expenditure would include but not be limited to a receipt, invoice, etc.

4. Expenses pertaining to authorized travel, whether lodging, mileage, meals and/or other incidental expenses shall be on the reimbursement basis.

   A. If mileage is to be reimbursed it shall require a travel expense report showing the mileage from and to destination for each trip taken. "Side trips" are not reimbursable when it is for personal use and not on official business.

   B. Documentation must be submitted for airline tickets, hotel or motel bills and other expenses connected to each trip.

   C. Documentation will not be required for individual items of expense of less than $1.00, or for items for which receipts are not practically available (tolls, parking, etc.).

THE OFFICER, MAY, IN HIS DISCRETION, ADVANCE TRAVEL EXPENSE FUNDS TO EMPLOYEES FROM THE F.O.J. FUND. ALL SUCH ADVANCEMENTS MUST BE ACCOUNTED FOR IN THE MANNER SET FORTH ABOVE, AND ANY UNUSED PORTIONS MUST BE PROMPTLY RETURNED TO THE F.O.J. ACCOUNT.

5. Equipment and Personal Property.

   A. Such equipment or personal property purchased with F.O.J, funds becomes and remains the property of the county.

   B. An inventory of such property shall be maintained and filed according to the provisions of Section 305.18, Revised Code.

6. Confidential Expenditures. (2)

   It is recognized by the Bureau of Inspection and Supervision of Public Offices that prosecuting attorneys and the sheriffs will use F.O.J. funds for confidential expenditures. An expenditure is "confidential" if disclosure of the event or the identity of the recipient or of the nature of the expenditure would tend to frustrate the purpose for which it is made or would tend to expose any person to intimidation or danger of physical harm, to himself or his property.

   The following methods (in addition to the Cash Book, Section 9) should be used for documentation of such expenditures:

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A. Purchases

Where practicable, each expenditure of F.O.J. funds for confidential purchases should be documented in accordance with the following (unless the procedures as set forth in Subsection D of this Section 6 are utilized):

1. When the case or investigation is finally concluded, an officer, employee or agent with firsthand knowledge of the necessary information shall furnish a report indicating, the item or items purchased, the date of the report, the date of the purchase, the amount expended, the check number, if applicable, the quantity and type of materials purchased, and the disposition thereof.

2. Where practicable, a separate check should be drawn for each transaction payable to the officer, employee or agent who will be making the actual purchase. If, for reasons of confidentiality, the check cannot be payable to the officer, employee or agent making the actual purchase, it should be made payable to a supervisory officer, who may cash the check and deliver the cash to the officer, employee or agent making the purchase. A signed receipt should be obtained at this time.

3. The report referred to in Subsection A(l) of this Section 6 must be signed by an officer, employee or agent with firsthand knowledge of the necessary information for the transaction and co-signed by the prosecuting attorney or sheriff.

B. Payments to Informants

Where practicable, and unless procedures as set forth in Subsection D of this Section 6 are utilized, a separate check should be drawn for each transaction payable to the officer, employee or agent making the actual payment. If, for reasons of confidentiality, the check cannot be made payable to the officer, employee or agent who will be making the actual payment, it should be made payable to a supervisory officer, who may cash the check and deliver the cash to the officer, employee or agent making the actual payment. A signed receipt should be obtained by the supervisory officer from the officer, employee or agent to whom cash is advanced.

C. Security

The extremely sensitive nature of the identity of informants and drug agents, the personal risk to such individuals, and the need for the

expenditures is clear. Accordingly, to maintain the confidentiality of such expenditures, it is the policy of the Bureau of Inspection and Supervision of Public Offices that:

1. The identify of drug purchasers or informants shall never be included in any written notes, work papers or reports prepared by representatives of the Bureau of Inspection.

2. Documentation required in these Subsections B, C and D of Section 6 of expenditures will be reviewed only in the office of the prosecuting attorney or sheriff and will not be removed by the representatives of the Bureau of Inspection, unless there is probable cause to believe that illegal expenditures have taken place, in which case the Bureau of Inspection and Supervision of Public Offices may apply to the Common Pleas Court of the county in which the prosecuting attorney or sheriff serves for an order directing the prosecuting attorney or sheriff to deposit such documentation with the court for further review.

3. Any representative of the Bureau of Inspection who discloses the identity of drug agents or informants, other than under compulsion of legal process, shall be dismissed.

D. Affidavit

Sections 6A and 6B shall not apply where a prosecuting attorney or sheriff in the reasonable exercise of his discretion determines that maintenance of the prescribed documentation would increase the risk of exposure of any person to intimidation or danger of physical harm to himself or his property, or would frustrate the purpose for which a confidential expenditure is made. Where the prosecuting attorney or sheriff makes such a determination, he shall prepare an affidavit setting forth the amount of the expenditure and the check number, if any, related to the expenditure and the general nature of the expenditure (e.g., purchase, informant payment, maintenance expense or travel for undercover agent). If such an expenditure is, made from the imprest cash fund (Section 7), the receipt number should be substituted for the check number. When such an affidavit is furnished, the state examiner shall not require that the check or, the receipt or other details shall be produced and will make no further inquiry concerning that expenditure unless there is probable cause to believe the affidavit is false, In which case the Bureau of Inspection and Supervision of Public Offices may apply to the Common Pleas Court of the county in which the prosecuting attorney or sheriff serves for an order to compel disclosure of information supporting the expenditure. A sample affidavit is supplied as Exhibit A.

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7. Imprest Cash Fund

Many of the expenditures properly made from the F.O.J. fund are of such a nature that payments must be made in cash and it is impossible to process a check quickly enough to complete the transaction. Accordingly, the establishment of an Imprest Cash Fund may be authorized and administered in the following manner:

A. The amount of the imprest cash fund must be formally established in the amount to be determined by the sheriff or prosecuting attorney.

B. The monies in the imprest cash fund must be under the custody and control of a specific supervisory officer at all times. This officer must account for all cash placed in his custody or have properly completed receipts to account for the balance.

C. Monies in the imprest cash fund may be expended only for confidential expenditures where the bank is not open to cash checks issued in the prescribed manner.

D. When an officer or agent requests a cash advance from the imprest cash fund, he must give a dated signed receipt to the supervisory officer in charge of the Imprest cash fund. If any portion of the advance is subsequently returned to the fund, the amount returned should be noted on the original receipt and the notation should be signed and dated by the supervisory officer. A new receipt should be issued to the officer returning the funds.

E. Where an expenditure is made from the imprest cash fund for a confidential purpose, it shall be documented in the manner provided in either Section 6A or 6D. An expenditure from the imprest cash fund for a payment to an informant shall be documented in the manner provided in Section 6D.

8. Receipts

All receipts should be prenumbered, duplicate receipts.

9. Accounting System

A short form ledger shall be maintained for the recording of all receipts and expenditures pertaining to F.O.J. funds. Such account shall be reconciled to the bank upon receipt of the bank statement and a copy of such

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shall be on file and submitted to the examiners upon request. The following is the recommended form to be used in recording the transactions pertaining to the F.O.J. fund:

(SEE ATTACHED EXHIBIT B)

BUREAU OF INSPECTION AND SUPERVISION
OF PUBLIC OFFICES ---- STATE OF OHIO

_____
Charles E. Mauger, Deputy State Auditor

CEM/bb
Attachments - 2

ADDITIONAL, ADDED GUIDANCE:

(1) City Council/Legislative Authority must authorize establishment of the F.O.J. fund by Ordinance, and set forth policies and procedures for use and accounting purposes. Those used herein may be utilized. City Council/Legislative Authority must appropriate the Local Governmental Entity money for the F.O.J. Fund from the General Fund. Do not use any Law Enforcement Trust Fund or Mandatory Drug Fine Money for the F.O.J. Fund unless specifically authorized by the Ohio Revised Code. Get a Legal Opinion in writing.

(1) Use of a Purchase Order, or Requisition for undercover "drug buys" and etc. will suffice so long as adequate detail of the date and purpose of the use of the money is documented to a degree which will not disclose the identity of the law enforcement officer.

* * CAUTION * *

* * REMEMBER * *

** * * The OHIO Revised Code Section(s), and, or Attorney General Opinion(s), included with, or referenced by this MAS BULLETIN May Have Been CHANGED, and Thus May Be OUTDATED.*

** * * PRIOR to taking any action, CONSULT AN UP-TO-DATE CURRENT LEGISLATIVE SERVICE To Ensure Compliance With The OHIO REVISED CODE. * * *CONSULT YOUR LEGAL COUNSEL.* * **

EXHIBIT A Circular No. 81-07

AFFIDAVIT

STATE OF OHIO)
) ss
COUNTY OF COOLIDGE)

A. Clovis Bencher, being first duly sworn, states that:

1. He is the duly elected and qualified Prosecuting Attorney of Coolidge County, Ohio;

2. In the performance of the official duties of his office and in the furtherance of justice, he has made expenditures of money received pursuant to Section 325.12, Revised Code, which expenditures are "confidential", within the meaning of that term as it is defined in Bureau Circular 81-007, Furtherance of Justice Funds, Section 6 (hereinafter "Circular")

3. He has determined, in the reasonable exercise of discretion, that maintenance of the prescribed documentation required by Sections 6A and 6B of the Circular would increase the risk of exposure of a person to intimidation or danger of physical harm to himself or his property, or would frustrate the purpose for which a confidential expenditure is made.

4. The amount, the check or receipt number, and the general purpose of such expenditures are set forth below:

Check or Receipt No.	Amount	General Nature
713	$362.00	Payment of travel expense for confidential investigation.
278	$ 22.43	Miscellaneous meal expense of informant in the course of confidential investigation.

A. Clovis Bencher,
Prosecuting Attorney
Coolidge County, Ohio

Sworn to and subscribed before me this 23 day, of December, 19xx.

Betty Jones
Notary Public

FURTHERANCE OF JUSTICE FUND
CASH BOOK

DATE	DESCRIPTION	CHECK NUMBER	DEBIT	CREDIT	BALANCE
06/01/7x	Balance Carried Forward				9,500.00
06/06/7x	Misc Meal Expense of Informant in Confidential Investigation	278	22.43		9,477.57
06/10/7x	Travel Expense for Confidential Investigation	279	362.00		9,115.57

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MAS8616.BUL

MAS BULLETIN 86-16

TO: ALL CLERKS OF COURTS
ALL COUNTY AUDITORS
ALL COUNTY SHERIFFS
ALL CITY AUDITORS
ALL TOWNSHIP CLERKS
ALL VILLAGE CLERKS

SUBJECT: Amended Senate Bill No. 67, Revised Code Section 2925.03, Effective August 29, 1986 (Drug Law Enforcement Fund)

Change (I) to (H)(1)

Change (K) to (D)(1)

The purpose of this advisory bulletin is to inform you that any fines collected under this section of the Revised Code "shall be paid to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. The mandatory fines shall be used to subsidize each agency's law enforcement efforts that pertain to drug offenses. Any additional fine imposed pursuant to division ~~(I)~~ of this section shall be disbursed as otherwise provided by law. ~~(K)~~ If a person is charged with any violation of this section and posts bail pursuant to sections 2937.22 to 2937.46 of the Revised Code or criminal rule 46, and if the person forfeits the bail, the forfeited bail shall be paid pursuant to division ~~(J)~~ of this section."

Change (J) to (F)

The presiding court should make the determination as to which law enforcement agencies shall participate in the distribution and how much each agency should receive.

Add "Pursuant to section (H)(2) of this section" here.

The court collecting the bail and/or fine should collect and the fines under this section of the Revised Code in a manner that of other fines.

Upon distribution (from the court), the law enforcement agency (except any state agency) should deposit the distribution received in the manner provided by law. The distribution should be deposited to the credit of a special revenue fund to be established as follows:

Amended Senate Bill No. 67 (Drug Law Enforcement Fund)

For all Ohio local governmental entities, the fund shall be known as the "Drug Law Enforcement Fund"; and,

alphanumeric

~~for counties, shall be coded as "B-01"; and~~,

for townships, shall be coded as "22" in the fund structure; and,

2081 -- 2089

for villages, shall be coded as ~~"B-8"; and,~~

~~any other local governmental entity participating in a distribution under this section should contact the Auditor of State's Management Advisory Services Division for fund code assignments.~~

This fund does require permission of the Auditor of State for establishment.

The Drug Law Enforcement Fund shall be appropriated in the manner provided by law.

Lastly, the fund shall be established by resolution or ordinance or the legislative body of the local governmental entity.

If you have any questions, you may contact the Auditor of State's Management Advisory Services at ~~1-800-282-0370~~ 1-800-345-2519 or (614) 466-4717.

MANAGEMENT ADVISORY SERVICES
AUDITOR OF STATE - STATE OF OHIO

_____

Russell L. Rouch, Deputy Auditor

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MAS8718.BUL

MAS BULLETIN 87-18

Amended by (F)(1) See text on next page.

TO: All County Auditors
All Sheriffs

SUBJECT: Drug Law Enforcement Fund Uses

The purpose of this advisory bulletin is to clarify how money collected under section 2925.03 of the Revised Code can be used.

Division (~~J)~~ of section 2925.03 of the Revised Code states in part, "~~Any mandatory fine imposed pursuant to this section shall be paid to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting the offender. The mandatory fines shall be used to subsidize each agency's law enforcement efforts that pertain to drug offenses."~~

One often asked question received by the Auditor of State's staff is whether or not, money in the Drug Law Enforcement Fund can be used to make drug purchases in an undercover investigation.

Money received under section 2925.03 of the Revised Code should be subject to the appropriation, budget, purchase order, certification, voucher, warrant or check writing and any other accounting controls which all other public money is subject to, as long as the money is used for or in, drug law enforcement related activities.

An acceptable use of money received under section 2925.03 of the Revised Code would be in undercover drug law enforcement efforts.

In order to reconcile the previously mentioned concepts, it is recommended that the local governmental entity could appropriate an amount of money in the Drug Law Enforcement Fund to be used in accordance with the guidelines established for Furtherance of Justice money.

Money in the Drug Law Enforcement Fund can be made available to responsible officials on a voucher or purchase order, with a warrant or check, payable to the responsible officials, which they in turn could convert to cash to be used in drug related law enforcement efforts under the Furtherance of Justice guidelines.

It is recommended that wherever possible an imprest amount be established so that the amount of money available for use under Furtherance of Justice guidelines at any given time does not exceed a limit established by the management of the local governmental entity without their approval.

If you have any questions, you should contact the Management Advisory Services Staff of the Auditor of State's Office at 1-800-345-2519.

MANAGEMENT ADVISORY SERVICES DIVISION
STATE OF OHIO ----- AUDITOR OF STATE

Russell L. Rouch, Deputy State Auditor

2925.03(F)(1) (1) Notwithstanding any contrary provision of section 3719.21 of the Revised Code and except as provided in division (H) of this section, the clerk of the court shall pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine that is 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, township, municipal corporation, park district, as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were 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.

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MAS8721.BUL

MAS BULLETIN 87-21

MAS NO. 87-21
DATE 11-23-87

TO: All County Auditors
School District Treasurers
City Auditors
Village Clerks
Township Clerks

SUBJECT: Attorney General's Opinion No. 87-069

Section 5705.44, Revised Code states in part: When contracts or leases run beyond the termination of the fiscal year in which they are made, the fiscal officer of the taxing authority shall make a certification for the amount required to meet the obligation of such contract or lease maturing in such fiscal year."

Often times, it becomes necessary for entities to enter into obligations (contracts) during one fiscal year for merchandise/services to be received and paid for in a subsequent fiscal year. This procedure normally becomes necessary due to delivery times.

In the past, exception has not been taken if the fiscal officer did not certify the availability of funds required under Section 5705.41, Revised Code if receipt of the merchandise/services and payment for same would both occur during a subsequent fiscal year. Exception was not taken based on the language of Section 5705.44 Revised Code.

Attorney General's Opinion No. 87-069 defines "contracts or leases" as used in Section 5705.44, Revised Code as contracts that are continuing contracts under Section 5705.41, Revised Code. Continuing contracts are further defined in the opinion as "divisible contracts and contracts that are designed by statute as continuing contracts."

Based upon these definitions, the opinion states that continuing contracts, where delivery of goods/services will not take place until a subsequent year and payment will not be due until the subsequent year, does not require the certification of the fiscal officer under Section 5705.41, Revised Code. However, contracts that are not considered to be continuing contracts as defined in the opinion, do require prior certification of the officer.

A copy of the syllabus of the opinion is attached for your convenience.

MANAGEMENT ADVISORY SERVICES DIVISION
AUDITOR OF STATE --- STATE OF OHIO

Russell L. Rouch, Deputy State Auditor

September 25, 1987

The Honorable Thomas E. Ferguson
Auditor of State
88 East Broad Street
Columbus, Ohio 43216

SYLLABUS: 87-069

1. Except as otherwise provided by statute, the term "continuing contract," as used in R.C. 5705.41(D), includes divisible contracts and contracts that are designated by statute as continuing contracts. (1966 Op. Att'y Gen. No. 66-117 (modified, in part, on other grounds by 1979 Op. Att'y Gen. No. 79-034); 1965 Op. Att'y Gen. No. 65-126; 1964 Op. Att'y Gen. No. 1524, p. 2-428; 1959 Op. Att'y Gen. No. 451, p. 220; 1942 Op. Att'y Gen. No. 5184, p. 383; 1938 Op. Att'y Gen. No. 2491, vol. II, p. 1078, questioned.)

2. A contract is entered into on a ,per unit" basis for purposes of R.C. 5705.41(D) if it sets forth a price for each unit of a particular item and provides that payment will be made on that basis for such number of units as may be provided. (1940 Op. Att'y Gen. No. 1695, p. 9, questioned.)

3. A contract entered into on a per unit basis may be a continuing contract.

4. Pursuant to R.C. 5705.41(D), a continuing contract to be performed in whole or in part in an ensuing fiscal year may not be entered into unless the fiscal officer has certified that the amount required to meet the obligation in the fiscal year in which the contract is made has been lawfully appropriated for such purpose and is in the treasury or in process of collection to the credit of an appropriate fund free from any previous encumbrances.

5. Pursuant to R.C. 5705.41(D), a contract may not be entered into on a per unit basis unless the fiscal officer has certified the availability of

sufficient funds to satisfy the amount estimated as becoming due upon the contract in the current year. (1974 Op. Att'y Gen. No. 74-043, qualified. 1940 Op. Att'y Gen. No. 1695, p. 9, questioned.)

6. The words "contracts or leases [that] run beyond the termination of the fiscal year in which they are made," as used in R.C. 5705.44, refer to contracts that are continuing contracts under R.C. 5705.41(D) and that by their terms extend beyond the fiscal year in which they are made. (1957 Op. Att'y Gen. No. 898, p. 372 and 1928 Op. Att'y Gen. No. 1678, vol. I, p. 316, overruled in part.)

7. Continuing contracts, including continuing contracts entered into on a per unit basis, come within R.C. 5705.44 if they run beyond the termination of the fiscal year in which they are made.

8. If a political subdivision or taxing district subject to R.C. 5705.41(D) enters into a continuing contract under which delivery of the goods or services will not take place until the ensuing fiscal year and payment will not be due until delivery, the fiscal officer need not, under R.C. 5705.41(D), certify any amount as being available during the fiscal year in which the contract is made. Pursuant to R.C. 5705.44, the amount of the obligation remaining unfulfilled at the end of a fiscal year and becoming payable during the following fiscal year shall be included in the annual appropriation measure for such following year as a fixed charge.

9. If a political subdivision or taxing district subject to R.C. 5705.41(D) enters into a continuing contract under which it cannot, in good faith, be determined whether delivery of the goods or services and the corresponding obligation to make payment will take place in the current fiscal year or in an ensuing fiscal year, the fiscal officer must, under R.C. 5705.41(D),

certify the entire amount due under the contract as available during the fiscal year in which the contract is made.

10. If a political subdivision or taxing district subject to R.C. 5705.41(D) enters into a continuing contract under which certain goods or services are to be delivered in the current fiscal year but payment is not to be made until an ensuing fiscal year, the fiscal officer must, under R.C. 5705.41(D), certify as available during the year in which the contract is made the amount required to meet the obligation for goods or services delivered during that fiscal year.

11. If a political subdivision or taxing district subject to R.C. 5705.41(D) enters into a contract that is not a continuing contract, the fiscal officer must, under R.C. 5705.41(D), certify the entire amount due under the contract as available when the contract is made, regardless of whether delivery of the goods or services and payment for such goods or services will take place during the fiscal year in which the contract is made or during a subsequent fiscal year. No certification of availability need be made in subsequent fiscal years.

12. Unless a contract is necessary for compliance with R.C. 3317.13(B) or comes within the exception set forth in R.C. 5705.412 for certain contracts requiring certificates under R.C. 5705.41, no school district shall make the contract unless there is a certificate signed by the treasurer and president of the board of education and the superintendent that the school district has in effect for the remainder of the fiscal year and the succeeding fiscal year the authorization to levy taxes which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to enable the district to operate an adequate educational program for the current fiscal year and the succeeding fiscal year, regardless of when goods or services are to be provided under the contract and regardless of when payment is to be made.

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MAS8803.BUL

MAS BULLETIN 88-03

TO: All County Commissioners
All County Auditors

SUBJECT: Guidelines for County Spending Plan

On October 30, 1987, MAS Bulletin No. 87-20 was issued to notify county officials of their ability to adopt a spending plan. At that time, the counties were notified that an additional advisory bulletin would be issued to provide sample forms and guidelines for implementation.

This advisory bulletin addresses the key issues that have arisen to date. It also includes the following forms:

FORM "A" - INITIAL REQUEST
FORM "B" - APPROVED COUNTY SPENDING PLAN
FORM "C" - AMENDMENT REQUEST
FORM "D" - QUARTERLY SPENDING PLAN REPORT

If you have any questions concerning this issue, do not hesitate to contact us at 1-800-345-2519.

MANAGEMENT ADVISORY SERVICES DIVISION
AUDITOR OF STATE ---- STATE OF OHIO

Russell L. Rouch, Deputy State Auditor

GUIDELINES FOR COUNTY SPENDING PLAN

The Authority for counties to adopt a spending plan was established in H.B. 231 with the creation of Section 5705.392, Revised Code. H.B. 231 was effective October 5, 1987. While this statute does not require counties to adopt a spending plan, it provides the authority if desired. This bulletin will attempt to set forth guidelines for counties to follow if they plan to incorporate the use of a spending plan.

1. The spending plan is to be adopted by the county commissioners along with the annual appropriation measure. The statute does not permit the spending plan to be initiated at a later date in the fiscal year.

2. The spending plan is to be prepared on a quarterly basis for expenses and expenditures associated with the general fund. All offices, departments, and divisions receiving general fund monies are to be included in the plan. No department that receives general fund monies ~~are~~ is exempt from participating in this process if the county decides to adopt a spending plan. * SEE NOTE AT END OF LIST BELOW

3. The amounts determined in the four quarterly periods will equal the amount of the appropriations for those offices, departments and divisions included in the spending plan. 3-Board may not adopt quarterly spending plans for county real estate assessment funds pursuant to O.R.C. 5703.05.

4. In developing the spending plan, the level of detail should correspond to the level of detail reflected in the county appropriation measure.

5. Each office, department and division should develop their own plan indicating in which quarter they expect to incur expenses and expenditures. In this manner, the county commissioners who will have the final approval along with the annual appropriation measure. If the amount of appropriations to be adopted exceed the amounts reflected in the proposed spending plan of a particular office, the spending plan of a particular office, the spending plan will need to be revised prior to adoption. The revision should be based upon input from the office involved.

6. Counties should also consider their cash flow situation when setting up the spending plan. In some cases, counties may be able to prevent the need for short term borrowing and incurring interest costs by matching quarterly allocations to the cash that would be available.

7. If the county passes a temporary appropriation measure specifying the anticipated expenditures and expenses to be incurred during the first quarter, the amounts allocated in that measure would be used for the first quarter spending plan allocations. Once the final appropriation measure has been developed, the last three quarters of the plan can be developed and adopted. Any changes in the first quarter of the plan due to differences in allocations should be made and adopted along with the final appropriations measure and the spending plan. If the county adopts a temporary appropriations measure that represents more or less than a three month period, the county will have to take this into consideration when developing the first quarter of the spending plan.

8. Once the plan is adopted by the commissioners, the amounts allocated for each quarter for expenses and expenditures are limited for the purposes of Section 5705.41(D) of the Revised Code. Offices, departments and divisions cannot obligate more than the quarterly allocation during any quarter.

9. When the commissioners review the office, department and division plans there may be some account items that are not appropriated to those offices, departments or divisions. (Example - employers share of PERS). The commissioners will have to allocate these types of items to the office, department of division that has control over these items. Usually the commissioners office will have control over these types of account items.

10. As noted in item #8 above, expenses and expenditures cannot exceed the quarterly allocations. This may present a problem when posting to the appropriations ledger, because the amounts are usually posted to the ledger as an annual figure. Counties can develop a program that will allow them to enter both the annual and quarterly amounts and not allow spending over those quarterly figures. As an alternative, counties could enter the allocation each quarter. This method would be the same as posting and reconciling the temporary appropriations. A reconciliation would be performed at the end of each quarter to determine the unencumbered allocation amounts. This method would require the spending plan to be posted four times, but would alleviate the necessity of developing a new program.

11. Any balance in a quarterly period that has not been expended or encumbered can be allocated to the remaining quarters, in the same appropriation account. In addition, if an office, department or division determines that revisions are necessary to specific quarterly allocations, amendments may be made through action of the commissioners.

12. When the appropriation measure is amended up or down the spending plan should be amended in the same manner. This procedure is also needed when affecting only line item appropriation accounts even though the department, office or division's total appropriations are not affected.

*Note from #2 above:
In Addition to expenditures associated with the general fund, the board may adopt a new spending plan or amended plan from "any county fund" for the second half of the year and subsequent fiscal years for any county office, department, or division if 60% of amount allocated for payroll or personal services has been spent during the first half of any fiscal year.
AND
The board may adopt a spending plan or amended spending plan setting forth expenses and expenditures of appropriations from "any county fund" if a county office, department or division during the previous year spent 110% or more of the total amount appropriated for personal services and payrolls.
NOTICE REQUIREMENT
30 days before adopting one of these new spending plans the board shall provide written notice to each county office, department, or division for which it intends to adopt a spending plan or amended spending plan.
DURATION LIMIT
The spending plan or amended plan should remain in effect for no more than 2 fiscal years. But if the administrative officer of the office for which the plan was adopted is an elected official, the spending plan shall not be in effect during a FY in which the elected official is no longer an administrative officer of that office, department or division.

FORM "A"

INITIAL REQUEST

_____SIGNATURE OF PREPARER

QUARTERLY SPENDING PLAN (SECTION 5705.392, R.C.)
FOR THE YEAR ENDING _____, 19___
_____ COUNTY
_____ (DEPARTMENT, OFFICE, DIVISION)

APPROPRIATION ACCT. DESCRIPTION	FIRST QUARTER ALLOCATION	SECOND QUARTER ALLOCATION	THIRD QUARTER ALLOCATION	FOURTH QUARTER ALLOCATION	TOTAL ANNUAL APPROPRIATION

FORM "B"
APPROVED COUNTY SPENDING PLAN

QUARTERLY SPENDING PLAN (SECTION 5705.392, R.C.)
FOR THE YEAR ENDING _____, 19___
_____ COUNTY
_____ (DEPARTMENT, OFFICE, DIVISION)

APPROPRIATION ACCT. DESCRIPTION	FIRST QUARTER ALLOCATION	SECOND QUARTER ALLOCATION	THIRD QUARTER ALLOCATION	FOURTH QUARTER ALLOCATION	TOTAL ANNUAL APPROPRIATION

FORM "C"
AMENDMENT REQUEST
INITIATED BY:
___COUNTY COMMISSIONERS
___DEPT., OFFICE, DIVISION

QUARTERLY SPENDING PLAN (SECTION 5705.392, R.C.)
FOR THE YEAR ENDING _____, 19___
_____ COUNTY
_____ (DEPARTMENT, OFFICE, DIVISION)
_____(1ST, 2ND, 3RD, 4TH)

APPROPRIATION ACCT. DESCRIPTION	QUARTERLY ALLOCATION	CHANGE OR AMENDMENT	ADJUSTED QUARTERLY ALLOCATION

FORM "D"
QUARTERLY SPENDING PLAN REPORT

QUARTERLY SPENDING PLAN (SECTION 5705.392, R.C.)
FOR THE YEAR ENDING _____, 19___
_____ COUNTY
_____ (DEPARTMENT, OFFICE, DIVISION)

APPROPRIATION ACCT. DESCRIPTIONS	PRIOR YEAR OUTSTANDING ENCUMBRANCES	YEAR TO DATE ALLOCATIONS	TOTAL AVAILABLE FOR EXPENDITURE AND ENCUMBRANCE	YEAR TO DATE EXPENDITURES	OUTSTANDING ENCUMBRANCES	TOTAL EXPENDITURES AND ENCUMBRANCES	VARIANCE

MAS BULLETIN

THOMAS E. FERGUSON

AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS8818.BUL

MAS BULLETIN 88-18

MAS NO. 88-18
DATE 6-22-88
PAGE 1 of 1

TO: CITY AUDITORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS

Replaced by 2981.13.

The purpose of this advisory bulletin is to inform you of the correct fund to use for those proceeds which are received from Federal law enforcement agencies and which belong to the local government because of its participation (with the Federal agencies) in an arrest and seizure.

These proceeds are restricted and should be used only for law enforcement purposes.

City, county and village fiscal officers should receipt these proceeds into the Law Enforcement Trust Fund created by section ~~2933.43~~ of the Revised Code.

Townships clerks whose law enforcement agency has received such proceeds should establish a "Federal Law Enforcement Fund", fund code 25, for these proceeds. This fund is to be classified as a special revenue fund. This fund does not require any further Auditor of State approval for establishment.

These proceeds are to be used only for the purposes as stated in section ~~2933.43~~ of the Revised Code for the Law Enforcement Trust Fund.

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

Fund 25 is from the township alpha-numeric fund codes (Twp. manual IV-25). The twp. numeric coding equivalent is fund 2251.

MANAGEMENT ADVISORY SERVICES DIVISION
STATE OF OHIO ----- AUDITOR OF STATE

Russell L. Rouch, Deputy State Auditor

MAS BULLETIN

THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

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MAS8819.BUL

MAS BULLETIN 88-19

MAS NO. 88-19
DATE 6-28-88
PAGE 1 of 1

TO: School District Treasurers
Assistant Auditors of State

SUBJECT: Federal Impact Aid/Disaster Aid

Certain Ohio school districts receive Federal Impact Aid/ Disaster Aid under Catalog of Federal Domestic Assistance number 84.041 (Public Law 81-874).

This Federal assistance may be receipted into the General Fund of the school district. The receipt code that must be used for this money is number 4110, Unrestricted Grants-in-Aid, Grant directly from Federal Government.

If you have any questions, you may contact Management Advisory Services at 1-800-345-2519 of (614) 466-4717.

MANAGEMENT ADVISORY SERVICES DIVISION
STATE OF OHIO ----- AUDITOR OF STATE

Russell L. Rouch, Deputy State Auditor

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AUDITOR OF STATE
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MAS8823.BUL

MAS BULLETIN 88-23

MAS NO. 88-23
DATE 8-22-88
PAGE 1 of 1

Numerical fund numbers no longer prescribed. Each county establishes its own coding system.

TO: County Auditors
County Treasurers

SUBJECT: New Fund Establishment: Prepayment Fund; ~~GG-90~~
Prepayment Interest Fund; ~~D-11~~

H.B. 20, effective 6-14-88, permits "county treasurers to accept pre-payments toward the payment of real property taxes on the due date if the prepayments equal the full amount of the total taxes due". Also, "investment earnings on prepayments invested by the treasurer shall be paid to the credit of a special interest account to be used by the treasurer only for the payment of the expenses incurred in establishing and administering the prepayment system.

To account for the county's prepayments, each county should establish an agency fund, the Prepayment Fund, ~~GG-90~~. To account for the county's investment earnings, each county should establish a special revenue fund, the Treasurers Prepayment Interest Fund, ~~D-11~~. These funds do not require Auditor of State permission to be established.

If you have any questions, you may contact the Auditor of State's ~~Management Advisory Services staff at 1-800-345-2519~~.

Local Government Services, at (614)466-4717

MANAGEMENT ADVISORY SERVICES DIVISION
STATE OF OHIO ----- AUDITOR OF STATE

Russell L. Rouch, Deputy State Auditor

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THOMAS E. FERGUSON

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MAS8903.BUL

MAS BULLETIN 89-03

MAS NO. 89-03
DATE 2-8-89

TO: Township Clerks
Village Clerks

SUBJECT: Insurance Coverage Payments from Various Funds

The purpose of this advisory bulletin is to clarify which fund or funds may be charged with insurance premium payments.

If a fund or funds may be charged for the purchase of whatever is being insured; then the fund or funds can be charged with the insurance of the item. For example, if the "Fire Levy Fund" buys a truck, then the "Fire Levy Fund" can pay for the truck's being insured.

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

MANAGEMENT ADVISORY SERVICES DIVISION
AUDITOR OF STATE ---- STATE OF OHIO

Russell L. Rouch, Deputy State Auditor

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THOMAS E. FERGUSON

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MAS8904.BUL

MAS BULLETIN 89-04

MAS NO. 89-04
DATE 2-14-89

TO: All County Auditors

SUBJECT: Creation of a Special Emergency Planning Fund as Mandated by Substitute Senate Bill Number 367, Effective December 14, 1988.

The purpose of this advisory bulletin is to inform you of the need for your county to establish a "Special Emergency Planning Fund" should your county participate in programs mandated by Substitute Senate Bill Number 367, which deals with the federal Emergency Planning and Community Right-To-Know Act of 1986 for hazardous and toxic substances.

The Fund should be classified as an agency fund, ~~proprietary~~ fiduciary fund type (originally proprietary which is incorrect; corrected by MAS Bulletin 89-08), at the county level.

The actual fund code to be used, is to be determined by the county auditor.

No further permission of the Auditor of State is necessary for fund establishment. However, the legislative authority must approve creation of the fund via resolution or ordinance.

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

MANAGEMENT ADVISORY SERVICES DIVISION
AUDITOR OF STATE ---- STATE OF OHIO

Russell L. Rouch, Deputy State Auditor

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MAS8908.BUL

MAS BULLETIN 89-08

MAS NO. 89-08
DATE 1-27-89

TO: All County Auditors

SUBJECT: Correction to MAS Advisory Bulletin 89-04

The Special Emergency Planning Fund classification should read "fiduciary" rather than "proprietary".

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

MANAGEMENT ADVISORY SERVICES DIVISION
AUDITOR OF STATE ---- STATE OF OHIO

Russell L. Rouch, Deputy State Auditor

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MAS8916.BUL

MAS BULLETIN 89-16

MAS NO. 89-16
DATE 7-25-89
PAGE 1 of 1

TO: County Auditors
City Auditors
Township Clerks
Village Clerks

SUBJECT: Receipts from the County Undivided Local Government Revenue Assistance Fund

The purpose of this advisory bulletin is to inform you that all money by a subdivision from the county Undivided Local Government Revenue Assistance Fund shall be paid into the subdivision's general fund and used for current operating expenses. Money received from the Fund should be coded as being revenue from the State of Ohio.

If you have any questions you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

MANAGEMENT ADVISORY SERVICES DIVISION
STATE OF OHIO ----- AUDITOR OF STATE

Russell L. Rouch, Deputy State Auditor

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MAS8919.BUL
MAS BULLETIN 89-19

MAS NO. 89-19
DATE 8-8-89
PAGE 1 of 1

To: All School District Treasurers
Assistant Auditors of State

Subject: Recommended Accounting Treatment of Federal and State Reimbursements

The purpose of this advisory bulletin is to inform you of a change in the accounting treatment for Federal and/or state reimbursements.

Effective July 1, 1989, all school districts receiving reimbursements of Federal and/or state money for expenditures which have been made from any fund, should receipt the reimbursement into the fund from which the expenditure was originally made.

All such receipts of Federal reimbursements must be coded using the appropriate 4000 series, Federal receipt code, regardless of the fund used. All state reimbursements must be coded using the appropriate 3000 series, state receipt code.

It is the responsibility of the school district to correctly identify the Federal and/or state money receipted into all funds.

Please note that this accounting treatment is to be used only for reimbursements and not for grants, loans or any other type of receipts requiring deposit and use of separate funds.

Examples of reimbursements are:

1. Reimbursement for vocational equipment.
2. Reimbursement for adult classes.
3. Reimbursement for staff travel.
4. Reimbursement for food subsidy.

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

MANAGEMENT ADVISORY SERVICES
STATE OF OHIO ---- AUDITOR OF STATE

Russell L. Rouch, Deputy Auditor of State

MAS BULLETIN

MAS9002.BUL

THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

TO: Boards of Health, City Auditors, County Auditors, Regional Solid Waste Management Authorities, Township Clerks and Village Clerks.

FROM: Russell L. Rouch, Deputy Auditor, Management Advisory Services

SUBJECT: Funds to be established per amended substitute House Bill No. 592 (H.B. 592), for solid waste, hazardous waste, and infectious waste management fees.

DATE: January 8, 1990

The purpose of this advisory bulletin is to inform you of the funds which may need to be established to comply with the provisions of Amended Substitute House Bill No. 592 (H.B. 592).

ALL GOVERNMENTAL ENTITIES

Any governmental entity which issues debt under H.B. 592, should establish any necessary capital project fund, or special revenue fund for the receipt of the proceeds of the debt issuance.

Any debt which is issued under H.B. 592, should be repaid (principal and interest) from a bond retirement fund, which is to be established per Section 5705.09 of the Revised Code.

Any local government receiving a litter grant from the Ohio Department of Natural Resources should establish an appropriate fund for the grant (normally a special revenue fund).

BOARDS OF HEALTH

Boards of Health receiving money under H.B. 592 (Sections 3734.05 and 3734.06, Revised Code) should establish one or more of the following funds, as necessary:

A "Solid Waste Fund," which is a special revenue fund, for fees and annual license revenues to be used to administer the solid waste provisions of Chapter 3734 of the Revised Code.

An "Infectious Waste Fund," which is a special revenue fund, for fees and annual license revenues to administer the infectious waste provisions of Chapter 3734 of the Revised Code.

CITIES AND VILLAGES (MUNICIPAL CORPORATIONS)

Cities and villages receiving "additional fees" under Section 3734.18 of the Revised Code (treatment and disposal of hazardous waste), should establish a "Hazardous Waste Fund", which is a special revenue fund.

City and villages receiving solid waste fees should receipt them into the General Fund pursuant to Section 3734.57 of the Revised Code.

TOWNSHIPS

Townships receiving solid waste fees pursuant to Section 3734.57 of the Revised Code should receipt them into the General Fund.

JOINT SOLID WASTE MANAGEMENT DISTRICTS

The board of directors shall designate the county auditor of a county participating in the joint district as the fiscal officer of the district. The fiscal officer shall establish a general fund and any other necessary funds for the district, per Section 343.01 of the Revised Code.

The district may levy fees upon the disposal at a solid waste disposal facility located in the district of solid wastes generated within the district and the disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state. Fees levied on these types of solid wastes are to be accounted for in a "solid waste fund." (Sections 3734.57 (B) (1) and (B) (2) of the Revised Code.)

For disposal at a solid waste disposal facility within the district, of solid wastes generated outside the boundaries of Ohio an additional amount equal to the amount established pursuant to Section 3734.57 (B) (1) of the Revised Code, is to be charged per Section 3734.57 (B) (3) of the Revised Code. This amount, (Section 3734.57 (B) (3) of the Revised Code), is to be deposited into the "Solid Waste Inspection Program Fund."

REGIONAL SOLID WASTE MANAGEMENT AUTHORITY

If a regional solid waste management authority is established under Section 343.011 of the Revised Code, it should establish a "solid waste fund" to receipt solid waste fees (Section 3734.57 of the Revised Code).

COUNTIES

A county which does not participate in a joint solid waste management district needs to establish a county solid waste management district and maintain one or more of the following funds for the following purposes:

Hazardous Waste Fund - to comply with Section 3734.18 of the Revised Code.

Solid Waste Fund - to comply with Section 3734.57 of the Revised Code.

Solid Waste Inspection Program Fund - to comply with Section 3734.57 (E) (6) of the Revised Code.

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

Russell L. Rouch, Deputy Auditor
Management Advisory Services

RLR/jr

MAS
BULLETIN

MAS9007.BUL

THOMAS E. FERGUSON
AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS NO. 90-07
DATE 2-23-90

TO: All Ohio Local Governments
Assistant Auditors of State

SUBJECT: Ohio Ethics Commission Advisory Opinion number 90-001, January 18, 1990.

DATE: February 20, 1990

The purpose of this advisory bulletin is to inform you of the above mentioned advisory opinion as it relates to your dealings with vendors.

The two points of the Ethics Commission's syllabus are:

1. Division (F) of Section 102.03 of the Revised Code and Division (A) of Section 2921.43 of the Revised Code prohibit a vendor who is doing or seeking to do business with an office, department, or agency of a political subdivision from promising or giving travel, meal, and lodging expenses incurred in inspecting and observing the vendor's product to the officials and employees of the office, department, or agency, even though the expenses are limited to those which are essential to the conduct of official business and are incurred in connection with the official's or employee's duty to inspect and observe the vendor's products in operation at existing facilities;

2. Division (F) of Section 102.03 of the Revised Code and Division (A) of Section 2921.43 of the Revised Code prohibit a vendor who is doing or seeking to do business with an office, department, or agency of a political subdivision from promising or giving travel, meal, and lodging expenses to the officials and employees of the office, department, or agency, even if the vendor's products and services are sold to the political subdivision pursuant to competitive bidding and the vendor has submitted the lowest and best bid.

If you have any questions, you should contact either your local legal counsel or the Ohio Ethics Commission at (614) 466-7090.

Russell L. Rouch,
Deputy Auditor of State
Management Advisory Services

RLR/jr

OHIO ETHICS COMMISSION

THE ATLAS BUILDING
8 EAST LONG STREET, SUITE 1200
COLUMBUS, OHIO 43215-2940
(614)466-7090

Advisory Opinion
Number 90-001
January 18, 1990

Syllabus by the Commission:

(1) Division (F) of Section 102.03 of the Revised Code and Division (A) of Section 2921.43 of the Revised Code prohibit a vendor who is doing or seeking to do business with an office, department, or agency of a political subdivision from promising or giving travel, meal, and lodging expenses incurred in inspecting and observing the vendor's product to the officials and employees of the office, department, or agency, even though the expenses are limited to those which are essential to the conduct of official business and are incurred In connection with the official's or employee's duty to inspect and observe the vendor's products in operation at existing facilities;

(2) Division (F) of Section 102.03 of the Revised Code and Division (A) of Section 2921.43 of the Revised Code prohibit a vendor who is doing or seeking to do business with an office, department, or agency of a political subdivision from promising or giving travel meal, and lodging expenses to the officials and employees of the office, department, or agency, even if the vendor's products and services are sold to the political subdivision pursuant to competitive bidding and the vendor has submitted the lowest and best bid.

You have asked whether Division (F) of Section 102.03 of the Revised Code prohibits the company which you serve as an officer from providing travel, meal, and lodging expenses to public officials and employees of a political subdivision with which your company desires to do business. You have asked whether it would make a difference if the goods and services are sold to the political subdivision pursuant to competitive bidding and your company has provided the lowest and best bid.

You have stated that your company conducts business within the state of Ohio primarily with the private sector, but will upon occasion, sell or seek to sell goods and services to political subdivisions. You have stated that in the instant situation, officials and employees of a political subdivision have expressed an interest in your company's products and services. You state that the political subdivision does not currently do business with your company and your company's representatives have supplied the officials and employees with information concerning your company's products and services and have referred them to current and past customers, but that the products and services can best be demonstrated by viewing their operation at an actual working site.

You argue that it would be mutually advantageous to the political subdivision and your company if your company paid the travel, meal, and lodging expenses of the political subdivision's officials and employees to observe your company's products in operation at existing facilities located both within and outside the state. You state that the political subdivision would have the advantage of determining by on-site observation whether your company's products and services would best fit their needs and your company would have the opportunity to demonstrate its products and services at a working site. You state that if your company were to pay the travel, meal, and lodging expenses of the public officials and employees who would visit the existing facilities then the political subdivision would be relieved of the burden of paying for such expenses. You also state that giving travel, meal, and lodging expenses to clients and potential customers is a widely accepted practice in the industry and a common occurrence in your company's transaction of business with the private sector. You further state that no recreational or personal purposes will be served by the trips and only expenses which are essential to the conduct of official business will be paid by your company. All expenses would be documented and this information supplied to the political subdivisions.

Division (F) of Section 102.03 of the Revised Code provides:

> (F) No person shall promise or give to a public official or employee anything of value that is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

The term "person" is defined to include any individual, corporation, partnership, association, or other similar entity. See R.C. 1.59. A "public official or employee" is defined for purposes of R.C. 102.03 as any person who is elected or appointed to an office or is an employee of any public agency. R.C. 102.01(C) defines "public agency" to include any department, division, board, commission, authority, bureau, or other instrumentality of a county, city, village, township, or other governmental entity. See R.C. 102.01(B) and (C). The term "anything of value" is defined for purposes of R.C. 102.03 to include money, goods, chattels, any interest in realty, a promise of future employment, and every other thing of value. See R.C. 102.03(G) and R.C. 1.03. The Ohio Ethics Commission has previously determined that the payment of travel, meal, and lodging expenses of a public official or employee is considered to be a thing of value for purposes of R.C. 102.03(F). See Ohio Ethics Commission Advisory Opinions No. 87-005, 87-007, 89-013, and 89-014.

Division (F) of Section 102.03 of the Revised Code was enacted as part of Am. Sub. H.B. 300, 116th Gen. A. (1986) (eff. September 17, 1986). Prior to enactment of Am. Sub. H.B. 300, Division (D) of Section 102.03 prohibited a public official or employee from using the authority or influence of his office to secure anything of value for himself that would not ordinarily accrue to him in the performance of his duties if the thing of value was of such character as to manifest a substantial and improper influence upon him with respect to his duties. The Ethics Commission held that R.C. 102.03(D) prohibited a public official or employee from using his public position to solicit or receive consulting fees, honoraria, conference registration fees, travel, meal, and lodging expenses, or other similar payments or reimbursement from a party that was interested in matters before, regulated by, or doing or seeking to do business with the governmental entity with which the public official or employee served. See Advisory Opinions No. 79-002, 79-006, 80-004, 84-009, and 84-010. The Commission explained in Advisory Opinion No. 84-010:

> The receipt of something of value from a party that is interested in matters before, regulated by, or doing or seeking to do business with the agency with which the public official or employee serves is of such character as to manifest a substantial or improper influence upon the public official or employee with respect to his duties, because it could impair his independence of judgment in the performance of his duties and affect subsequent decisions in matters involving the donor of the thing of value.

Am. Sub. H.B. 300 amended Division (D) to omit the requirement that the thing of value be for the public official himself, and that it not ordinarily accrue to him in the performance of his official duties. See Advisory Opinions No. 87-004 and 88-004.

Am. Sub. H.B. 300 also enacted Division (E) of Section 102.03 which prohibits a public official or employee from soliciting or accepting anything of value that is of such character as to manifest a substantial and improper influence upon him with respect to his duties. R.C. 102.03(E) does not require that the public official or employee use the authority or influence of his office or employment to secure the thing of value and prohibits a public official or employee from merely accepting or soliciting anything of value from a party that is interested in matters before, regulated by, or doing or seeking to do business with, his public agency. See Advisory Opinions No. 86-011 and 89-006. Divisions (D) and (E) of Section 102.03 of the Revised Code place the prohibitions and criminal penalties for violation of the prohibitions upon the public official or employee. The addition of Division (F) of Section 102.03 to the Ohio Ethics Law in 1986 by Am. Sub. H.B. 300 imposes a prohibition and criminal penalty upon the person or entity who improperly promises or gives a thing of value to a public official or employee. See R.C. 102.99.

The Ethics Commission has held that Division (F) of Section 102.03 of the Revised Code prohibits a company that is interested in matters before, regulated by, or doing or seeking to do business with a public agency from promising or giving, either directly to a public official or employee or indirectly to his public agency, travel, meal, or lodging expenses. See Advisory Opinions No. 87-005, 87-007, 89-002, 89-013, and 89-014. This prohibition applies even in instances where the travel, meal, and lodging expenses are directly related to the required performance of the public official's or employee's duties, and benefits his political subdivision by relieving the political subdivision of the necessity of paying for such expenses. See Advisory Opinion No. 86-011 (citing the example of a public official or employee receiving from a regulated party the expenses incurred in the inspection of a site or a facility required as part of a permit application, enforcement action, or compliance review). The Commission has explained that although budgetary considerations are of great concern to any political subdivision, the prohibitions of R.C. 102.03 override the political subdivision's desire to maximize its budget by having parties that are interested in matters before, regulated by, or doing or seeking to do business with the political subdivision pay the travel, meal, and lodging expenses of its officials and employees. See Advisory Opinion No. 89-014.

The fact that you propose that all expenses be documented to establish that your company paid only expenses essential to the conduct of official business and that no recreational or personal purpose was served by the trip does not alter the prohibition of 102.03(F). R.C. 102.03(F) simply prohibits such parties from promising or giving anything of value to a public official or employee as the best means of serving the

public's interest in effective, objective, and impartial government by preventing the creation of situations which could impair the objectivity and impartiality, and therefore the effectiveness, of a public official or employee, or his public agency, in matters affecting an interested or regulated party or a party doing or seeking to do business with the public agency. See generally Advisory Opinion No. 89-014. Your company's documentation and disclosure that the expenses the company provided to public officials and employees were limited to expenses essential to the conduct of official business may serve to establish that your company desires to conduct business openly; however, such documentation and disclosure would not negate the potential impairment of objectivity and impartiality of the political subdivision's public officials or employees in matters affecting your company.

You have asked whether it would make a difference if the goods and services are sold to the political subdivision pursuant to competitive bidding and your company has submitted the lowest and best bid after providing the political subdivision's employees and officials with the travel, meal, and lodging expenses necessary to inspect and observe your company's products. A bidding process must be open and fair with every reasonable effort made by a political subdivision to ensure that the selection process is open to all interested and qualified parties and that a contract is awarded to the party that win provide the necessary goods and services at the lowest cost. See generally Advisory Opinions No. 83-004, 88-001, and 89-004. Plans and specifications in a bidding invitation may not be drawn to favor any manufacturer or bidder unless specifically required by the public interest See State v. Board 11 Ohio App. 2d 132, 140 (Montgomery County 1967). A public official or employee who is entrusted with the duty of formulating bid specifications, determining what is to be provided, advertising the bids, evaluating the goods and services offered by vendors, and deciding what is the lowest and best bid, must act with complete objectivity and independence of judgment. Therefore, the fact that your company would sell goods and services to political subdivisions pursuant to competitive bidding would not negate the potential impairment of the objectivity and impartiality of Judgment of the political subdivision's public officials or employees in matters concerning your company.

The payment of a public official's or employee's expenses by a source other than the employing public agency also implicates the prohibitions of R.C. 2921.43(A), which reads:

(A) No public servant shall knowingly solicit and no person shall knowingly promise or give to a public servant either of the following-.

(1) Any compensation, other than allowed by divisions (G), (H), and (I) of section 102.03 of the Revised Code or other provisions of law, to perform his official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform his official duties.

R.C. 2921.43(A)(1) prohibits a person, including an individual, corporation, partnership, association or other similar entity, see R.C. 1.59, from promising or giving to a public

servant any compensation, other than allowed by R.C. 102.03(G)-(I) or other provision of law, to perform any act in his public capacity or generally perform the duties of his public position. See Advisory Opinion No. 89-013. R.C. 2921.43(A)(1) also prohibits a public servant from soliciting any such outside compensation. Id. The Commission has held that the term "compensation" as used in R.C. 2921.43 includes travel, meal, and lodging expenses incurred by a public official in visiting a site to view and evaluate a vendor's product since such an act is clearly within the performance of the official's or employee's public duties. See Advisory Opinions No. 89-013 and 89-014. Therefore, R.C. 2921.43(A) prohibits a vendor seeking to do business with a political subdivision from promising or giving travel, meal, and lodging expenses to public officials and employees of that political subdivision in order to view and evaluate the vendor's product. See Advisory Opinion No. 89-014.

The Ethics Commission has previously held that R.C. 102.03(F) does not prohibit a party that is interested in matters before, regulated by, or doing or seeking to do business with a public agency from promising or giving travel, meal, and lodging expenses to the political subdivision or its personnel in two limited situations. The Commission has held that R.C. 102.03(F) does not prohibit such a party from promising or giving directly to the public agency itself the cost of inspecting or examining such a party where the public agency is statutorily authorized to charge for the cost of inspecting that party. See Advisory Opinion No. 87-005.

Also, the Commission has held that R.C. 102.03(F) does not prohibit such a party from promising or giving travel, meal, and lodging expenses to public officials and employees where the requirement that the party provide trips for business purposes to the public agency's officials and employees is included in the agency's bid specifications and ultimately in the contract between the party and the public agency. See Advisory Opinion No. 87-007. The political subdivision, by including the cost of trips in bid specifications and in the final contract, pays consideration for such trips, and ultimately bears the cost of such trips. Id. Such an arrangement will avoid the prohibitions of R.C. 102.03 and R.C. 2921.43. See Advisory Opinion No. 89-013.

This opinion addresses facts which involve officials and employees of political subdivisions of the state, however, the prohibitions of R.C. 102.03 and R.C. 2921.43 Include all public officials and employees whether on the state or the local level See R.C. 102.03 and R.C. 2921.01(B); Advisory Opinion No. 89-014. Therefore, R.C. 102.03(F) and R.C. 2921.43 would prohibit a vendor who is doing or seeking to do business with an office, department, or agency of the state from promising or giving travel, meal, and lodging expenses to officials and employees of that state office, department, or agency. Furthermore, as explained above, the Commission has previously determined that parties who are regulated by or interested in matters before a public agency, as well as parties which do business or seek to do business with, a public agency are improper sources of things of value for the officials and employees of that agency. Therefore, R.C. 102.03(F) and R.C. 2921.43 prohibit any party that is regulated by, interested in matters before, or doing or seeking to do business with, a public office, department, or agency is prohibited from giving travel, meal, and lodging expenses to an official or employee of that office, department, or agency.

This advisory opinion is based on the facts presented, and is rendered only with regard to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code.

Therefore, it is the opinion of the Ethics Commission, and you are so advised, that: (1) Division (F) of Section 102.03 of the Revised Code and Division (A) of Section 2921.43 of the Revised Code prohibit a vendor who is doing or seeking to do business with an office, department, or agency of a political subdivision from promising or giving travel, meal, and lodging expenses incurred in inspecting and observing the vendor's product to the officials and employees of the office, department, or agency, even though the expenses are limited to those which are essential to the conduct of official business and are incurred in connection with the official's or employee's duty to inspect and observe the vendor's products in operation at existing facilities; and (2) Division (F) of Section 102.03 of the Revised Code and Division (A) of Section 2921.43 of the Revised Code prohibit a vendor who is doing or seeking to do business with an office, department, or agency of a political subdivision from promising or giving travel, meal, and lodging expenses to the officials and employees of the office, department, or agency, even if the vendor's products and services are sold to the political subdivision pursuant to competitive bidding and the vendor has submitted the lowest and best bid.

_____

David L. Warren, Chairman
Ohio Ethics Commission

MAS BULLETIN

MAS9023.BUL

THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

TO: All Common Pleas Courts
All Probate Courts
All Municipal Courts
All County Courts
All County Auditors
All County Treasurers
All Sheriffs
All County Recorders
All Prosecuting Attorneys
All County Engineers
All Boards of County Commissioners
All County Coroners
All Boards of Elections
All Assistant Auditors of State

SUBJECT: Change in the Effective Date of the Census for Pay Purposes.

DATE: July 10, 1990

The purpose of this advisory bulletin is to inform you of one of the provisions of Attorney General Opinion No. 82-047, dated July 2, 1982.

Syllabus number 2 states:

> [f] or the purpose of those sections of R.C. Chapter 325 that provide for the compensation of county officers based upon population, the population figures as shown by the 1980 federal decennial census <u>were effective as of the date on which the Governor received the completed basic population tabulations transmitted by the Secretary of Commerce</u>. (1941 Op. Att'y Gen. No. 3982, p. 551, overruled.)(Emphasis added.)

Attorney General Opinion No. 82-047, also overruled Auditor of State Circular No. 80-7, dated October 20, 1980, all copies of which should be destroyed or marked "VOID".

County officials whose pay is based on the Census and who merit pay raises based on population increases will receive the raises effective as of (or retroactive to) the date the Governor receives the completed basic population tabulations from the Secretary of Commerce.

County officials of counties whose population declines enough to cause a compensation decrease will be governed by Section 325.22, Revised Code, which prohibits a compensation decrease during the remainder of the term of office due to a decline in the population of the county.

Any questions should be directed to the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

_____
Russell L. Rouch, Deputy Auditor

RLR/jr

THOMAS E. FERGUSON
AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

TO: All Ohio Governments
All Assistant Auditors of State

SUBJECT: Preferred Accounting Treatment of Real Estate Tax and Tangible Personal Property Tax Distributions

The purpose of this advisory bulletin is to inform you of the preferred accounting treatment for real estate and tangible personal property tax distributions.

Two variations of the "Statement of Semi-Annual Apportionment of Taxes" are being used by counties for tax settlements to local governments. One of the forms is causing confusion as to how the information is to be recorded. This is due to rollback and homestead being listed as "deductions" (SEE FORM A). This has resulted in some local governments posting rollback and homestead as expenditures and property tax revenues being inflated. In the examples shown below, both actual settlements are identical, and should be posted the same:

Information from "Statement of Semi-Annual Apportionment of Taxes"

FORM A

Source of Receipts	General Fund	
General Property Tax	$4,073.21	
Tangible Personal Property Tax	.00	
TOTAL DISTRIBUTION	$4,073.21	
DEDUCTIONS		
10% Rollback	207.54	*
Homestead	46.49	*
2 1/2%	17.30	*
SUBTOTAL	271.33	
Auditor and Treasurer Fees	134.21	
Dretac	3.37	
Worker's Compensation	2,264.17	
TOTAL DEDUCTIONS	2,673.08	
BALANCES	1,400.13	
LESS ADVANCES	.00	
NET DISTRIBUTION	$1,400.13	

FORM B

Source of Receipts	General Fund
General Property Tax	$3,801.88
Tangible Personal Property Tax	.00
TOTAL DISTRIBUTION	$3,801.88
DEDUCTIONS	
Auditor and Treasurer Fees	134.21
Dretac	3.37
Workers Compensation	2,264.17
TOTAL DEDUCTIONS	2,401.75
BALANCES	1,400.13
LESS ADVANCES	.00
NET DISTRIBUTION	$1,400.13
TO BE RECEIVED FROM STATE	
10% Rollback	207.54
Homestead	46.49
2 1/2%	17.30
TOTAL DISTRIBUTION STATE	$271.33

In each of the above examples, $3,801.88 in property tax revenue should be recorded and only the Auditor and Treasurer fees ($134.21), DRETAC ($3.37), and Worker's Compensation deductions ($2,264.17) should be posted as expenditures. Form A shows a higher amount of property taxes, but this amount must be reduced by the items identified by an * prior to recording the revenue ($4,073.21 - 207.54 - 46.49 - 17.30 = $3,801.88).

The amounts shown that will be received from the state (rollback, homestead or personal property tax exemption revenue) are reported for informational purposes only.

IMPORTANT NOTE

In the case of a township, improper posting of rollback and homestead as expenditures could result in improper calculations for the clerk's compensation since it is currently based on a percentage of expenditures. All township clerks should review the procedure they followed to insure that the compensation calculation was accurate.

If you have any questions, you may contact the Management Advisory Services staff at 1-800-345-2519.

Russell L. Rouch, Deputy Auditor
Management Advisory Services

RLR/jr

MAS BULLETIN

MAS9111.BUL

MAS NO. 91-11
DATE 4-30-91
PAGE 1 of 2

THOMAS E. FERGUSON

AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-

Note: GAAP governments should record unclaimed (i.e. "escheat" money) in fiduciary funds per GASB 84. They should account for escheat money per GASB 21 (Cod. E 70)

TO: All Local Governments

SUBJECT: Liability for Public Money; Unclaimed Moneys.

DATE: April 25, 1991

Section 9.39 of the Revised Code provides that unclaimed money shall be deposited to the credit of a trust fund and shall be retained there until claimed by its lawful owner. If not claimed within a period of five years, the money shall revert to the General Fund of the Public Office.

This bulletin addresses the accounting procedures to follow regarding outstanding, stale-dated warrants/checks issued by the governmental entity.

Example: A warrant/check issued to Sams Garage was posted in the cash journal and appropriation ledger in the amount of $100.00 from the Gasoline Tax Fund and has been outstanding for 90 days.

Step 1. When the warrant/check becomes stale-dated (90 days from issue date) a memorandum pay-in should be made to the ~~expendable trust fund -~~ (~~later called~~ agency) unclaimed moneys, post the warrant/check number, name of the payee and identify the money as unclaimed, to the cash journal and receipt ledger. Do not reverse the original entry. You can now remove the warrant/check from the list of outstanding warrants/checks.

Step 2. if the rightful owner, claims the unpaid money, a warrant/check in the amount of $100.00 will be paid from the Trust Fund. If the liability remains unclaimed for a period of five years from the date the money was placed in the Trust Fund, the money shall then be paid to the General Fund.

If, after the five year period the rightful owner claims the unpaid money, a warrant/check in the amount of $100.00 will be paid from the General Fund.

It is recommended that your warrants/checks be printed with the statement "Void After 90 Days".

~~For those townships presently participating in the Uniform Accounting Network, unclaimed money should be deposited to the credit of Fund 27G, "Agency Fund",~~

~~For those townships not participating in the Uniform Accounting Network, unclaimed money should be deposited to the credit of Fund 27. "Agency Fund".~~

Villages should deposit unclaimed money in ~~Fund G5, "Other Trust and Agency Fund".~~

If you have any questions, you may contact the Auditor of State's Management Advisory Service staff at 1-800-345-2519.

VILLAGES:
9101-9199 ***Unclaimed Monies***. Classify the fund balance as ***Nonspendable***, per Bulletin 2001-04.

Russell L. Rouch, Deputy Auditor
Management Advisory Services

RLR/jr

TOWNSHIPS
Per the Township Manual, pg. II-60, "On the financial statements, unclaimed monies should be reflected in the fund that would ultimately receive the money (General Fund). In order to do this, UAN Townships should map the fund with the General Fund on UAN. Manual users would simply combine the Unclaimed Monies Agency Fund with the General Fund, and reflect the "Nonspendable - Unclaimed Monies" on the face of their financial statements."
Also, per the Township Manual, pg. II-77, "For unclaimed monies, the difference between the amount of cash in the fund and the estimated liability for payments to claimants would be classified as nonspendable fund balance until the end of the five year holding period. Unclaimed funds are legally required (ORC Section 9.39) to be maintained for five years. For a cash basis entity, the entire cash balance would be reported as nonspendable."

THOMAS E. FERGUSON
AUDITOR OF STATE
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TO: School District Treasurers
Assistant Auditors of State

Subject: Three Different Topics
#1 Anticipated Operating Deficits
#2 Generic School Plan
#3 Inventory of Supplies

Date: May 20, 1991

TOPIC #1: ~~Anticipated Operating Deficits~~

~~We would like to advise all school districts of potential time constraints if they anticipate an operating deficit at June 30, 1992.~~

~~School Districts that anticipate having insufficient revenues to operate through the year without borrowing, excluding borrowing against their spending reserve, need to take action by July 31, 1991, to start the procedure outlined in Section 3313.483, Revised Code, (commonly referred to as the "State Loan Program").~~

~~The process requires involvement of the school districts, State Auditor's Office, State Department of Education and the State Controlling Board as well as local lending institutions. A significant amount of time is needed to coordinate all aspects of the process.~~

~~Due to the requirements placed on school districts under Section 5705.412, Revised Code, certain deadlines are automatically imposed on districts that anticipate operating deficits.~~

~~Section 5705.412, Revised Code, requires districts to attach a "certificate of adequate revenues" to temporary appropriation measures when they exceed 25% of the prior years total amount from all sources available for expenditure. In most districts, this would impose a deadline around October 1st in obtaining authorization to borrow over year end.~~

~~School Districts faced with a projected operating deficit need to notify this office and the Ohio Department of Education by July 31, 1991, to initiate the process. Our office will make these projects a priority during the months of August and September to assist you in meeting your deadlines.~~

~~It is the policy of the State Auditor's Office not to release a school district financial forecast within thirty days of an election at which residents will vote on any matter affecting the school district. If any matter. including the election of board members, will be on the November ballot, it is imperative that your request for a forecast be received early.~~

Mail the resolutions to:
State Auditor's Office
Atten: Financial Forecast Information
88 E. Broad Street - 5th floor - MAS
Columbus, Ohio 43266-0040

TOPIC #2: Generic School Plan

~~We have recently developed a generic school plan for the conversion of cash statements to Generally Accepted Accounting Principles (GAAP). Any district that is planning to convert for fiscal year 1992 can request a copy of this plan. Districts that are required to convert for fiscal year 1993 and later may request a copy at this time, hoverer, priority will be given to the fiscal year 1992 conversions. Please specify the year of your planned conversion as part of your request~~.

TOPIC #3: Inventory of Supplies

School Districts that are planning on preparing a GAAP basis statement for fiscal year 1992 may need to do an inventory of supplies on or about June 30, 1991, as explained below. It is important to note that the district only needs to count large quantities of supplies such as storage rooms, warehouses and large supply cupboards. Each district may want to count all supplies and materials on hand at 6/30/91, then determine which areas are material. The district may want to consult with their audit staff to observe inventory and assist in determining departments/locations which hold material amounts of supplies.

The following is the explanation of doing the inventory of supplies:

Fixed assets and inventory are two types of assets in any entity. Fixed assets are items that are not consumed. They retain their original shape and appearance with use such as buildings, land, furniture, equipment, and vehicles. They have a useful life of at least a year and a significant initial cost. Inventory loses its original shape or appearance with use. Examples include office supplies, classroom workbooks and purchased and donated food for lunchroom.

Reporting Methods:

Inventory items may be considered expenditures either when purchased or when used.

Purchase Method. The purchase method charges supplies at the time of acquisition as an expenditure. Inventories on hand at year end are recorded as an asset with a corresponding reserve for inventory in fund equity indicating that the asset does not represent spendable financial resources. This method is appropriate for governmental funds only.

Consumption Method. The consumption method records inventory in the inventory accounts at acquisition and as expenditures when used. Fund equity reserve need not be established unless a minimum amount of inventory must be maintained and is therefore not available for expenditure. This method is appropriate for ether governmental or proprietary funds.

Physical Inventory:

A physical inventory is a valuation process performed by counting all items and identifying their associated costs. When taking an inventory, the District should define what type of items will be counted, implement proper controls, count the items, and then cost the inventory at proper prices.

Defining Inventory. When determining what must be counted, the planning process should be done jointly between the department supervisors (principals) and the fiscal officer. Each department supervisor should make a diagram of their buildings and land. Then the supervisor should take an extensive tour of each building and all the land and determined where the supplies are located. this information should be recorded on the diagram. At this point, the department supervisors should meet with the fiscal officer to determine what must be counted.

It is helpful to set a dollar limit. For example, the District may decide not to count any items whose total value is less than $50. Nor is it necessary to count many small individual items such as pens and pencils, sheets f paper, nuts and bolts, etc. However, if a very large number of items such as these are on hand at the time the inventory is taken, numbers may be reasonably estimated with the approval of the audit staff. Also, it may be possible to exclude and entire area or department from the inventory process if the cost of the inventory in that area is small compared to the total inventory of the fund or fund type.

This concept is called materiality. As an example, if an administration building maintains a two or three hundred dollar inventory of office supplies, this would be immaterial when compared to a total inventory of gasoline, motor vehicle repair parts, etc., of many thousands of dollars.

Proper Controls and Counting the Items. There should be someone in charge of each department's inventory. The most effective and efficient person would be the department supervisor, since he is familiar with the department's supplies and personnel. Then the supervisors would determine which personnel will count inventory at each location. In addition, each department supervisor should assign a "checker" to randomly check all counts. Finally, each department supervisor should assign a "coster" to determine current costs for each item on the inventory.

The form that is used to record the inventory count should be as clear as possible. The form should have a column for product code number, description of product, quantity counted, price per unit, and extensions. In addition, there should be lines at the top to provide information about who took the inventory, who checked the inventory, the location of the inventory, and numbering of inventory sheets.

The fiscal officer should assemble all inventory forms and number them consecutively. A record should be kept as to which department vas given which series of numbers. There should be no unnumbered forms. Within each department, the supervisors should assign each location with specific pages and record that on the diagram. The department supervisors should be able to account for all pages issued to them.

On inventory day, each department supervisor will give the personnel in each area the specific series of inventory sheets per the diagram. For example, storage area one received pages 145-195. The assigned personnel will then count and record each inventory item in their location. The "checker" will go to each location and randomly test counts on each page and place his initials on the pages. The supervisor will go to each location and pick up the specific sheets issued to that location, both those which were completed and which remain blank. For outside supply areas, special consideration will need to be given to the inventory sheets to prevent loss.

During the inventory, there are a few controls that should be in place to provide an accurate count. First, there should be a control on the use of inventory. If the department cannot completely close down for the taking of inventory, then a record of what inventory was used that day should be kept. The department supervisor should receive this list along with the inventory sheets. Second, there should be a control on the receiving of supplies on the day of inventory. These items should be kept in one particular area during inventory counting and not put in any storage location. These controls will help insure that all inventory is counted once and only once.

After the inventory has been taken and the supervisor has accounted for all inventory sheets, the sheets should be turned over to the "coster".

Costing the Inventory. The "coster" must assign a cost to each item in the inventory. Assuming that the oldest items are used first, the items in inventory are the ones most recently purchased. Thus, the FIFO, first-in-first-out, costing method is appropriate to use. If the physical flow does not always follow the FIFO process, another costing method may have to be chosen. A costing method simply provides for a uniform costing of the inventory.

The "coster" should take each item and look up the most current invoice for the item to get the cost per unit and record it on the inventory sheets. After doing this for all items, extend each line by multiplying quantity by price per unit. Then, add each page and total all pages to arrive at the total value of the inventory.

The final step for each department is to duplicate the inventory sheets and send them to the Treasurer. The Treasurer should verify the receipt of all inventory sheets issued to specific departments. In addition, they should also randomly check for mathematical accuracy on extensions and footings.

Prior Planning:

There are a few things that can be done in advance to make the inventory taking process go smoothly. Make sure all storage areas are neat and organized. This will make counting easier and faster. In addition, determine what supplies are obsolete. Before discarding obsolete items, approval of the department supervisor should be required. The department supervisors should get an early start on setting up their diagrams of storage areas. Finally, the "coster"' can start researching costs for items that will definitely be on hand when inventory is taken.

The cost of the total inventory will appear on the balance sheet. It will indicate that this figure represents the cost of all inventory on hand as of June 30. Sometimes it is not possible to perform the count on June 30, or the count may require more than one day to perform. This will not cause a problem as long as the change that takes place in the amount of inventory between the count date and June 30 is not significant. If there is a large change, the count should be appropriately restated.

Verification:

To insure that the inventory amount reported on the balance sheet is reasonably accurate, the inventory count will usually be observed by the District's independent auditor. They will not participate in the process, merely verify that proper procedures are being followed. When the inventory is completed, written acknowledgment should be requested from the auditors. If a problem exists, it should be corrected at the time the inventory is taken. It may not be possible to correct it at a later date.

Donated Commodities:

Federal donated commodities on hand at year end should be reported as inventory on the balance sheet with an offsetting deferred revenue. Title to school district federally donated commodities does not pass to the District until the commodities are used; therefore, the donated commodities revenue should be deferred until the inventory is used. The fair market value of donated commodities used during the year is reported in the operating statement as an expense with a like amount reported as donated commodities revenue.

Donated commodities used during the year will be reflected as an adjustment to operating income on the statement of cash flows because the expense does not reflect cash outflows.

If you have any questions, you may contact the Management Advisory Services staff at 1-800-345-2519.

Russell L. Rouch, Deputy Auditor
Management Advisory Services

MAS BULLETIN

THOMAS E. FERGUSON
AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

TO: All School District Treasurers
All Assitant Auditors of State
County Auditors

SUBJECT: Post-Seconary Enrollment Options Program Accounting Treatment

DATE: October 15, 1991

The purpose of this advisory bulletin is to inform you of the preferred accounting treatment for the post-secondary enrollment options program payment made through the school foundation distribution.

Senate Bill No. 140 established the program, which, under Section 3365.07 of the Revised Code mandates that the Department of Education pay the college attended by a student of a school district under certain circumstances.

Section 3365.07 of the Revised Code also states that the amount paid to a college is to be subtracted from the school district's school foundation payment.

The school district should receipt this amount as though it were actually received, using receipt code 3190, Other Unrestricted Grants.

Next, the school district should post the post-secondary program expenditure. Object code 479, Other Tuition and function code 1131, Preparatory, High School should be used.

The money should be receipted into the general fund.

Russell L. Rouch, Deputy Auditor of State

RLR/jcr

THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

MAS9205.BUL

MAS Bulletin 92-05

TO: Boards of County Mental Retardation and Developmental Disabilities
Boards of County Commissioners
County Auditors
Assistant Auditors

SUBJECT: Amended Substitute Senate Bill No. 156
Effective January 10, 1992

DATE: March 10, 1992

This legislation amended several sections of the Revised Code pertaining to the Ohio Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities.

From an accounting standpoint, most significant was the enactment of Section 5705.091, Revised Code. This section of the Revised Code requires the board of commissioners of each county to establish a county mental retardation and developmental disabilities general fund. Notwithstanding Sections 5705.09 and 5705.10, Revised Code, proceeds from levies under Section 5705.222, Revised Code, and division (L) of Section 5705.19, Revised Code, shall be deposited to the credit of the county mental retardation and developmental disabilities general fund. Unless otherwise provided by law, an unexpended balance at the end of a fiscal year in any account in the county mental retardation and developmental disabilities general fund shall be appropriated the next fiscal year to the same fund.

Also, under Section 5705.091, Revised-Code, a county board of mental retardation and developmental disabilities may request, by resolution, that the board of county commissioners establish a county mental retardation and developmental disabilities capital fund. The board is required to transmit a certified copy of the resolution to the board of county commissioners and upon receipt of this resolution, the board of county commissioners shall establish the capital fund.

Section 5705.14(H)(1) of this legislation allows transfer of funds by the board of county commissioners from a county mental retardation and developmental disabilities general fund to a capital fund. Such transfer request shall be by resolution of the county board of mental retardation and developmental disabilities to the board of county commissioners. This section also provides for the transfer back to the county mental retardation and developmental disabilities general fund of any unexpended balance of the capital fund.

Code of Funds:

~~BB-01~~ County Mental Retardation and Developmental Disabilities General Fund (~~same account as BB-03, and add receipt code 7, local revenue).~~

~~BB-05~~ County Mental Retardation and Developmental Disabilities Capital Fund (~~same account as BB-03, and add receipt code 7, local revenue).~~

No additional permission of the Auditor of State is necessary to establish these Funds; only a resolution of the Board of County Commissioners is needed.

If you have ~~any questions, feel free to contact the Management Advisory Service staff at 1-800-345-2519 or 1-614-466-4717~~.

These codes are no longer prescribed, but the remainder of the Bulletin applies.

Russell L. Rouch, Deputy Auditor
Management Advisory Services

RLR:jf

THOMAS E. FERGUSON, CFE

AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

MAS9302.BUL

MAS Bulletin 93-02

TO: ALL CLERKS OF COMMON PLEAS COURTS
ALL CLERKS OF JUVENILE COURTS
ALL CLERKS OF PROBATE COURTS
ALL CLERKS OF MUNICIPAL COURTS
ALL CLERKS OF COUNTY COURTS
ALL CITY AUDITORS AND FISCAL OFFICERS
ALL COUNTY AUDITORS

SUBJECT: RECENT LEGISLATION REGARDING CERTAIN INCREASES IN COURT FEES

DATE: JANUARY 20, 1993

The purpose of this advisory bulletin is to inform you of the provisions of two recently enacted bills: Amended Substitute House Bill Number 405, which became effective January 1, 1993; and Substitute Senate Bill Number 246, which becomes effective March 24, 1993. Both deal with funding the computerization of certain courts and with funding the acquisition and maintenance of computerized legal research services for certain courts. Both bills are attached for your information.

Amended Substitute House Bill Number 405 also modifies the debt limit computation for municipalities and counties when debt is issued for the purpose of the computerization to the extent provided in Chapter 133, Revised Code. In addition, the term "court costs" is changed to "court fees," as it applies to legal aid society support. The fee can be waived if the court waives the advanced payment of all filing fees. The bill also removes the cap for court costs and fees in municipal courts.

The preferred accounting treatment is that each fee established by each court be accounted for in a separate fund. The fund(s) should be special revenue funds of the city or county. The funds should be treated as regular funds of the city or county.

They should be budgeted, appropriated and encumbered. However, if the court so chooses, there can be one appropriation line item to cover the entire fund. These funds can be spent only upon order of the court.

In order to clarify questions on how or where the money can be spent, the following areas are considered appropriate expenditures for computerization and for the acquisition and maintenance of legal research services. They include, but are not limited to: computer space; computer electrical; computer air-conditioning; computer furniture, computer printer; computer software; subscription to computer service(s); staff to operate the computer system, including fringes; supplies, i.e., computer paper, etc.; training expenses; maintenance of equipment; and computer needs studies.

Any questions should be directed to your local legal counsel.

No additional Auditor of State approval is necessary for fund establishment--only a resolution of the legislative authority is needed.

All interest earned by the fund(s) should be deposited to the general fund (Section 5705.10, Revised Code).

Please remember that the provisions of Substitute Senate Bill Number 246 become effective on March 24, 1993.

If you have any questions, please contact the Management Advisory Services staff at 1-800-345-2519 or at (614) 466-4717.

Paul W. Rennick, CPA
Deputy Auditor of State

PWR/jcr

~~Attachments:~~

~~Amended Substitute HB No. 405 made the following sections effective January 1, 1993:~~

~~133.05, 133.07, 147.05, 733.16, 1901.26, 1901.261, 1907.24, 1907.261, 2101.162, 2151.541, 2153.081, 2301.21, 2301.031, 2303.20, 2303.201, 2323.261, 4735.16, and 5301.40.~~

~~Substitute SB No. 246 made the following sections effective March 24, 1993, thereby amending some of the above sections:~~

~~1901.261, 1907.261, 2101.162, 2151.541, 2153.081, 2301.031, and 2303.201.~~

~~The CURRENT, EFFECTIVE AS OF December 31, 1993, Ohio~~ Revised Code Sections are attached in R C Section number sequence.

THOMAS E. FERGUSON, CFE

AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

MAS9320.BUL

TO: CITY AUDITORS/FINANCE DIRECTORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS
ASSISTANT AUDITORS OF STATE

SUBJECT: PROCEEDS FROM THE SALE OF VEHICLES ORDERED CRIMINALLY FORFEITED TO THE STATE. (SUBSTITUTE SENATE BILL NO. 275, EFFECTIVE MARCH 18, 1993.)

DATE: DECEMBER 1, 1993

The purpose of this advisory bulletin is to inform you of the preferred accounting treatment/disposition of the proceeds from the sale of a vehicle ordered criminally forfeited to the state.

When a vehicle is ordered criminally forfeited to the state under the sections mentioned in section 4503.234 of the Revised Code (a copy of which is attached), it may be given to the law enforcement agency responsible for the seizure of the vehicle. Or, the vehicle ordered forfeited may be sold at public auction.

If a vehicle is ordered criminally forfeited and is sold at public auction, each vehicle must be accounted for separately.

The proceeds of the sale are to be distributed as follows:

First, for "... the costs incurred in connection with the seizure, storage, and maintenance of, and provision of security for, the vehicle, any proceeding arising out of the forfeiture, and, if any, the sale."

Second, for "... the payment of the value of any legal right, title, or interest in the vehicle" as provided by law.

Third, up to $1,000 is to go to the law enforcement agency responsible for the seizure of the vehicle. This amount must be spent in accordance with division ~~(D)(1)(c) and (2) and division (D)(3)(a)(ii) of section 2933.43~~ of the Revised Code, a copy of which is attached.

Replace with "(B) and (C) of section 2981.13

Fourth, any money remaining shall be distributed as follows:

(a) Fifty per cent is to be paid into the Reparation Fund of the state.

(b) Twenty-Five per cent is to be paid into the Drug Abuse Resistance Education Programs Fund of the state.

Checks to the state are to be made payable to the Treasurer of State and sent to 30 East B Street, 9th Floor, Columbus, Ohio 43266-0421. Also, you should include the distribution For the Treasurer of State's staff to use.

Replace with 2981.13

(c) The remaining twenty-five per cent is to be deposited into the Fund(s) described in section ~~2933.43~~ of the Revised Code, and used only for the purposes authorized by divisions ~~(D)(1)(c), (2) and (3)(a)(ii)~~ of that section of the Revised Code.

Legal questions should be referred to your local legal counsel, and any accounting questions should be directed to Management Advisory Services at 1-800-345-2519 or (614) 466-4717.

Replace with (B)(4)(c), (C), and (D).

Paul W. Rennick, CPA
Deputy Auditor

Attachments:

~~Substitute SB No. 62 made the following sections effective March 18, 1993:~~

~~2933.43 and 4503.234.~~

~~The CURRENT, EFFECTIVE AS OF December 31, 1993, Ohio Revised Code Sections are attached in R C Section number sequence.~~

The attached 2933.43 and 4503.234 have been removed. You should refer to the latest 2981.13 and 4503.234.

THOMAS E. FERGUSON, CFE

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

MAS9321.BUL

MAS BULLETIN 93-21

TO: ALL COUNTY AUDITORS
ALL CITY AUDITORS/FINANCE DIRECTORS
ALL TOWNSHIP CLERKS
ALL VILLAGE CLERKS
ALL ASSISTANT AUDITORS OF STATE

DATE: DECEMBER 8, 1993

SUBJECT: IMMOBILIZATION OF VEHICLE FEE

This advisory bulletin applies only to those Ohio local governments having law enforcement agencies which are responsible for impounding vehicles under the OMVI statutes.

Section 4503.233 of the Revised Code (Substitute Senate Bill No. 275, effective March 18, 1993) states in part:

> The Registrar shall pay the immobilization fee to the law enforcement agency that employs the law enforcement officer who immobilizes the vehicle <u>to reimburse the agency</u> for the costs it incurs in obtaining immobilization equipment and, if required, in sending its officer to search for and locate the vehicle specified in the immobilization and impoundment order and to immobilize the vehicle. (Emphasis added.)

The immobilization fee is to be deposited to the fund or funds which initially paid for the immobilization. Typically, ~~the general fund or a police levy fund~~ are used, although other funds could have paid all or part of the immobilization costs.

Should you have any questions concerning this advisory bulletin, please contact the Management Advisory Services Department staff at 1-800-345-2519 or 614-466-4717.

Replace with "Public Safety-Highway Purposes Fund"

Paul W. Rennick, CPA
Deputy Auditor

THOMAS E. FERGUSON, CFE

AUDITOR OF STATE
MANAGEMENT ADVISORY SERVICES
P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

MAS9408.BUL

TO: COUNTY AUDITORS MAS Bulletin 94-08

SUBJECT: RECENT ATTORNEY GENERAL OPINION

DATE: AUGUST 12, 1994

The purpose of this advisory bulletin is to inform you of a recent Attorney General opinion that may pertain to your county.

The syllabus of the opinion is as follows:

SYLLABUS: 94-047

> An individual who serves as part-time health commissioner of two different counties may not serve in both such capacities on a joint district solid waste management policy committee. Instead, to avoid a conflict of interests, the individual must name a designee to serve as a member of the policy committee in one of those capacities.

If you have any questions, you should contact your legal counsel or the Auditor of State's Management Advisory Services staff at 1-800-345-2519.

O. F. Knippenburg
Acting Deputy Auditor

* * CAUTION * ** * REMEMBER * *

** * * The OHIO Revised Code Section(s) included with, or referenced by this MAS BULLETIN May Have Been CHANGED, and Thus May Be OUTDATED.*

** * * PRIOR to taking any action, CONSULT AN UP-TO-DATE CURRENT LEGISLATIVE SERVICE To Ensure Compliance With The OHIO REVISED CODE. * * *CONSULT YOUR LEGAL COUNSEL.* * **

THOMAS E. FERGUSON, CFE

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS BULLETIN

MAS9410.BUL

MAS Bulletin 94-10

TO: CITY AUDITORS/FINANCE DIRECTORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS

SUBJECT: RECENT ATTORNEY GENERAL OPINION

DATE: AUGUST 12, 1994

The purpose of this advisory bulletin is to inform you of a recent Attorney General opinion which may pertain to your local government.

The syllabus of the opinion follows:

1994 Attorney General Opinion 94-046

SYLLABUS: 94-046

4501:2-10-06(C)

[1993-1994 Monthly Record] Ohio Admin. Code ~~4501:2-10-06(B)~~ at 1467 restricts all information contained in or processed through the Law Enforcement Automated Data System (LEADS) to the use of law enforcement agencies and criminal justice agencies for the administration of criminal justice. Accordingly, records of information contained in or processed through LEADS, including data entered directly into a LEADS data base, computer tape logs created by LEADS of transactions on LEADS, and hard copies of data on a LEADS data base or from other data bases accessed through LEADS, are not public records subject to disclosure pursuant to R.C. 149.43(B).

If you have any questions, you should contact your legal counsel or the Auditor of State's Management Advisory Services staff at 1-800-345-2519.

O. F. Knippenburg
Acting Deputy Auditor

* * CAUTION * ** * REMEMBER * *

** * * The OHIO Revised Code Section(s) included with, or referenced by this MAS BULLETIN May Have Been CHANGED, and Thus May Be OUTDATED.*

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Date: November 27,1995
Bulletin: 95-016

AUDITOR OF STATE BULLETIN

TO: ALL SCHOOL DISTRICT TREASURERS
ALL EDUCATIONAL SERVICE CENTER TREASURERS
ALL IPAS

SUBJECT: SCHOOL GAAP ISSUES

The purpose of this bulletin is to provide information to school districts that may be useful in the preparation of their GAAP financial statements for the 1995 fiscal year. Although it is already late in the statement preparation process, the bulletin may help reduce the number of audit issues that arise later on. The bulletin will respond to some of the more frequently asked questions and address issues that have been treated inconsistently in Ohio, as well as identifying some of the changes in GAAP that are now in effect.

The Accrual of Property Taxes

Current GAAP states that a receivable for property taxes should be established for taxes that have been levied. Property tax revenue is to be recognized in the year for which it is levied (the year in which it is available for appropriation), provided it is available. Property taxes are considered available if they are due, or past due and received within the available period, and collected within the current period or soon enough thereafter to be used to pay liabilities of the current period. The tax calendar for schools is based on four settlements occurring within the fiscal year as follows:

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July 1                                          June 30
  [-------------------------------------------------------]
        Aug 94      Oct 94      Feb 95          June 95
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August and February represent real and public utility property tax settlement dates. October and June represent personal property tax settlements. These settlements are for several different tax years. Taxes are levied and collected on a calendar year basis. 1993 real property taxes are levied by school districts in April 1993, and settled in February and August of 1994.

1994 personal property taxes are levied by school districts in April 1993, and settled in June and

October of 1994. 1993 public utility taxes are levied by school districts in April 1993, and settled with real property taxes in February and August of 1994. The following chart for the settlements occurring in the 1995 fiscal year may make this process a little easier to understand.

Settlement	Type of Tax	Tax Year	Levy Date
August 94	Real Property	1993	April 93
	Public Utility	1993	April 93
October 94	Pers. Property	1994	April 93
February 95	Real Property	1994	April 94
	Public Utility	1994	April 94
June 95	Pers. Property	1995	April 94

You can see from the chart that all settlements occurring within a fiscal year are levied prior to the beginning of the fiscal year. It would be therefore be appropriate to establish a receivable at June 30, 1995, for the 1996 fiscal year's estimated settlements. It would not be appropriate to recognize revenue at June 30, 1995, for the 1996 fiscal year's estimated settlements since the anticipated taxes were levied for the 1996 fiscal year. The receivable is therefore offset by a credit to deferred revenue. The only exception to this approach occurs when second half real property taxes are available as an advance prior to year end. Since state statute allows boards of education to appropriate advances available at June 30, 1995, for the 1995 fiscal year, it should be recognized as revenue rather than deferred. This approach may differ from what your district has been doing. If so, a restatement of beginning of the year balances would be required if the amount to be recognized is material.

Rollback and Homestead

In a recent bulletin dealing with foundation payments (Bulletin #95-012, dated September 13, 1995) we identified new guidelines for the recognition of revenue from entitlements. The guidelines state that an entitlement may not be recognized as revenue prior to the year it is intended to finance. Several school districts have asked about applying the new guidelines to homestead and rollback reimbursements received within the available period. Homestead and rollback payments are entitlements paid by the State to a political subdivision. They are intended to reimburse the subdivision for reductions in property tax revenue caused by credits granted to certain property owners by state statute. Based on guidance provided in "Governmental Accounting, Auditing and Financial Reporting" published in 1994 by the Government Finance Officers Association, the year that an entitlement is intended to finance is based on the year in which it is appropriated by the State.

The homestead and rollback payment made following the August settlement is appropriated by

theState in the 95/96 fiscal year and therefore may not be recognized as revenue in fiscal 95 by school districts.

New Pronouncements in Effect for FY 1995

GASB Statement 10 "Accounting and Financial Reporting for Risk Financing and Related Insurance Issues" is effective for self- insurance programs. The statement provides that if one fund is going to be used to account for a self-insurance program, it must either be the general fund or an internal service fund. Guidelines identify the proper accounting treatment based on the fund selected. The statement also creates note disclosure requirements for self-insurance programs.

GASB Statement 20 "Accounting and Financial Reporting for Proprietary Funds "is effective this year. The statement provides guidance for determining which pronouncements apply to accounting for proprietary activities, and authorizes a choice regarding certain pronouncements issued after November 30, 1989. Local governments must disclose in the notes to the financial statements which pronouncements are being applied to accounting and reporting for proprietary fund activities.

GASB Statement 21 "Accounting for Escheat Property" establishes the fund type in which to report escheat and unclaimed property. Escheat property represents assets that revert to a government because there are no legal claimants or heirs. Unclaimed assets revert to a government due to the failure of the person who is legally entitled to the property to make a valid claim within a certain period of time. Escheat and unclaimed property should be reported in an expendable trust fund or in the fund that will ultimately receive the assets if they are not claimed. Escheat and unclaimed property should be offset by a liability to the extent it is believed the property will be claimed. Property held for another government should be reported in an agency fund.

GASB Statement 22 "Accounting for Taxpayer Assessed Tax Revenues in Governmental Funds" establishes that revenue should be recognized for income taxes to the extent they are measurable and available at year end, net of estimated refunds. If the amount accrued equals the actual payment received during the available period, an estimate of refunds is not necessary. The State Treasurer withholds from the quarterly payments amounts needed for the payment of refunds. Most school districts with an income tax will already have been following the guidelines of this statement. If not, the notes to the financial statements should recognize that the statement went into effect for this year and report any material restatement caused by the change as of June 30, 1994.

GASB Statement 16 "Accounting for Compensated Absences" was effective last year, but some reports did not indicate that it had been adopted. Statement 16 expanded the scope of the liability for compensated absences to include benefit payments that are probable, rather than just reporting those that are already vested.

GASB Statement 23 "Accounting and Financial Reporting for Refundings of Debt Reported by

Proprietary Activities" is effective for fiscal 1995, but is unlikely to apply to a school district in Ohio.

GASB Technical Bulletin No. 94-1 "Disclosures about Derivatives and Similar Debt and Investment Transactions" is effective for fiscal 1995. The Bulletin defines derivatives and establishes disclosure requirements for districts that have used, held or written derivatives during fiscal 1995.

Year-End Accounts Payable

Year-end accounts payable represent goods or services received prior to year-end for which payment has not yet been made. All outstanding year-end accounts payable should be reported as fund liabilities on the balance sheet, not just those paid during the available period. This means that a search for payables that is limited to the available period may not be adequate. The search should be continued until you are no longer discovering significant additional payables.

Accrued Liabilities

Accrued liabilities are obligations that have been incurred as of the balance sheet date but for which payment is not yet due. In general, accrued liabilities are presented as fund liabilities. GASB, however, has specifically identified the following liabilities to which this rule does not apply: claims and judgments, compensated absences, unfunded pension contributions, and special termination benefits. These liabilities are to be reported as fund liabilities only to the extent they will normally be paid with expendable available financial resources. The amount that will not normally be paid from available financial resources is to be reported in the General Long-term Debt Account Group. Determining what, if any, portion of these liabilities will be reported as a fund liability is difficult. Although other methods may be considered acceptable, two methods are preferable.

The first method reports the portion of the liability that is paid during the available period as a fund liability. The second method reports the portion of the liability that is "funded" as a fund liability. A liability incurred during the year is funded to the extent that a local government sets aside money in the current budget to pay it. The result of funding liabilities as they are incurred is the accumulation of money that will eventually be used to pay the liability. In Ohio, accumulating significant resources to make payments in future years is only permitted if specifically authorized by state statute. To date, school districts are not authorized to accumulate money for the liabilities listed above.

Fringe Benefits Owed to Employees

As of June 30, many school district employees have fulfilled the requirements of their employment contracts. These contracts often run from September 1 through August 30 and require the school district to provide insurance benefits to the employee for the entire term of the contract.
If the district is legally responsible for providing the insurance based on services already provided by the employee, whether or not the employee is rehired for the following school year,

then the district should report a liability to the employee for the cost of the coverage for July and August in its annual financial statements for the year ended June 30, 1995. If the liability has not been recorded in previous years, a restatement of the July 1, 1994, fund balances/retained earnings will have to be presented either in the financial statements or in the notes to the financial statements.

Amounts Owed to the Retirement Systems

School districts that pay the employer share of retirement contributions through a deduction from foundation payments are two months behind in payments to STRS and six months behind in payments to SERS. Multiplying the foundation deduction times either two or six will provide an acceptable estimate of the liability, provided the salary estimate upon which the deductions were based was reasonable. This is an accrued liability that must be reported as a fund liability. The allocation of the liability among funds should consider the policy of the district in allocating the foundation deductions. The result should be an annual expenditure/expense for employer contributions reported within each fund that equals the employer contribution rate times total covered payroll.

Workers' Compensation

Payments made to workers' compensation in one calendar year are to pay for coverage provided for the previous calendar year. Payments made in 1995 pay for 1994 coverage. The liability at June 30, 1995 equals the 1994 contribution rate times 1994 salaries plus the 1995 contribution rate times salaries for January through June of 1995 minus any payments made in January through June of 1995. This is an accrued liability that must be reported as a fund liability. The liability should be allocated to the funds that will pay it, remembering that GAAP suggests that an appropriate allocation be made to proprietary funds.

Compensated Absences

The liability for compensated absences is now based on guidance provided by GASB Statement 16. The liability for payments to be made from proprietary funds is reported entirely within the proprietary funds. The liability for payments to be made from governmental funds must be allocated between the funds and the GLTDAG. The portion of the liability reported within the funds represents the amount estimated to be paid using current available financial resources. Two methods for calculating the fund liability are identified in the "Accrued Liabilities" section of this bulletin. The first method calculates the fund liability by summing payments made during the available period that reduce the year-end liability. The fund liability under the second method equals the portion of the liability that has been funded.

Reporting Entity

Defining the reporting entity under the guidance of GASB Statement 14 is still generating many

questions. The most frequent areas of concern include data acquisition sites, self- insurance pools, booster organizations and cash activity that is not on the books of the school district treasurer.

Data Acquisition Sites

Most data acquisition sites (DAS) are being reported as jointly governed organizations. Exceptions occur when the agreement among the participating districts states that the districts have a responsibility for paying the outstanding obligations of the DAS (such as a capital lease of computer equipment) if the DAS is unable to make the payments, and when control of a DAS is placed in one district. In the first instance, the DAS should be reported as a joint venture. In the second, the DAS is reported as an internal service fund of the district with control.

A DAS would be considered a joint venture and each district would report an equity interest on its balance sheet when the agreement specifies the method for distribution of assets upon dissolution of the DAS and each district's interest upon dissolution arises from annual operating subsidies rather than operations. Although this situation is a possibility, it rarely occurs.

Self-Insurance Pools

There are three types of self-insurance pools operating in Ohio. The first is a shared risk pool. A shared risk pool operates like an insurance company. Subject to the terms of the agreement creating the pool, premium payments may be used to pay the claims of any participant. Premium payments made by a school district are recorded as expenditures/expenses by the district and as revenue by the pool. The pool should issue financial statements that identify the operation and financial condition of the pool as a whole.

The second type of pool is a claims servicing pool. The pool reviews and pays claims of the participants, either directly or through services provided by a third party administrator, and invests available balances. The financial activity related to each participating school district is kept separate. A school district's payments to the pool may only be used to pay its own claims, not those of other participants. Most school districts report their participation in this type of pool through a self-insurance internal service fund. Revenues of the fund represent payments by the other funds of the district. Expenses include claims, administrative charges and the purchase of stop-loss coverage. The fund should also reflect any year-end cash balance held by the pool as "Cash with Fiscal Agent" on the balance sheet.

Some additional comments regarding claims servicing pools may help some school districts avoid potential problems.

The claims expense reported for the year should include the amount of the liability for

unpaid claims costs as of June 30. This liability is a year-end estimate, usually provided by the third party administrator, of the additional costs that will be paid for ongoing claims and the cost of claims that have been incurred but have not yet been reported.

Third party administrators are service providers as that term is defined in Statement on Auditing Standards No.70. See Bulletin 95-10, issued by this Office on September 7, 1995.

Routinely determine that your stop-loss insurance provider is financially sound either by requesting a copy of the audited year-end report or by checking the company's rating with Best Ratings.

School districts are required under Ohio Rev. Code Section 9.833 to establish adequate reserves for their self-insurance programs for health care benefits, and to have the adequacy of the reserves evaluated annually by an actuary. The report of the actuary is to be filed with the administrator of the program.

The third type of pool is a group purchasing pool. This pool shops for insurance as a group with the intention of securing better rates than if each participant purchased insurance separately. The pool may collect the premiums from the participants for payment to the insurer. Payments to the pool should be reviewed to determine when payment is made to the insurer and the period covered by the payment. Payments to the insurer may be current expenditures/expenses or they may be a prepaid. Each participant’s proportionate share of money still held by the pool at year-end should be reflected on the participant's financial statements.

If you report the activity of a self-insurance program on your financial statements, take care to insure that revenues and expenses are properly matched to the correct fiscal year. This can be difficult if financial information is provided by a third party for use in your report.

Booster Organizations

Booster organizations are not currently presented as part of the school district's financial statements under GAAP unless the money of the organization is considered public under state statute. In general, if a booster organization gives the impression that contributed money will be under the control of the board of education, then the contributed money will be considered public.

Cash Off The Books

It is not unusual for GAAP statements of a school district to include cash that is not on the books of the treasurer at year end. Examples include money with a financial institution for servicing debt, money held in escrow during construction, money held by a third party administrator providing claims servicing for a self-insurance program, money held in a deferred compensation program under section 457 of the internal revenue code, and money in a payroll account that does not reconcile to zero. In each instance, journal entries should be made to present this money on the balance sheet of the district, and may be necessary to correctly present revenues

and expenditures. Examples may be found in the generic GAAP plan for schools available from the Local Government Services Division of the State Auditor's Office.

The Auditor's Office is aware that the accounting information presented in this bulletin is of a summary nature and may raise additional questions about applying this information to your district. Questions are welcome and should be directed to the Local Government Services Division at (800) 345-2519 or the Audit Division at (800) 282-0370. Any legal questions raised by this bulletin should be directed to your legal counsel.

Jim Petro, Auditor of State
State of Ohio

AUDITOR OF STATE BULLETIN 96-026
NOVEMBER 8, 1996

TO: ALL COUNTY COMMISSIONERS
ALL COUNTY TREASURERS
ALL COUNTY AUDITORS
ALL CLERK OF COURTS OF COMMON PLEAS
ALL CITY MAYORS/MANAGERS
ALL CITY AUDITORS/FINANCE DIRECTORS/TREASURERS
ALL VILLAGE MAYORS
ALL VILLAGE CLERK/TREASURERS
ALL TOWNSHIP TRUSTEES
ALL TOWNSHIP CLERKS
ALL SCHOOL DISTRICT TREASURERS
ALL EDUCATIONAL SERVICE CENTERS
ALL JOINT VOCATIONAL SCHOOL DISTRICTS
ALL HOSPITALS
ALL PORT AUTHORITIES
ALL LIBRARY CLERKS/TREASURERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: SENATE BILL NO. 81 - QUESTIONS AND ANSWERS

On August 20, 1996 the Auditor of State issued Auditor of State Bulletin 96-017. The purpose of that bulletin was to assist local governments in meeting the requirements of Senate Bill No. 81 ("The Act"). Since the release of that bulletin our office has received numerous questions regarding the Act and our bulletin. This bulletin summarizes the most frequently asked questions and the answers our staff provided.

(1) Will the Auditor of State review and comment on my written investment policy when it is filed with the office?

Answer: Due to the quantity of investment policies the Auditor of State anticipates receiving, it would not be feasible to review and comment on each individual policy filed with the Auditor of State. However, each individual investment policy will be reviewed during the regular audit of the subdivision or county. That review will include appropriate recommendations and comments to management.

(2) My subdivision's investment portfolio is under $100,000. Do I have to file an investment policy?

135.(O)(3)

Answer: No, Ohio Rev. Code §135.14~~(N)~~(3) specifically states that the filing requirements do not apply to a subdivision whose average annual portfolio is one hundred thousand dollars ($100,000) or less, **provided** that the treasurer or governing board certifies on a form prescribed by the Auditor of State, that the treasurer or governing board will comply and is in compliance with §§ 135.01 to 135.21 of the Revised Code. **Please note that the $100,000 exception is not applicable to counties.** However, the Office of Auditor of State strongly recommends that all entities file an investment policy.

(3) Is my subdivision required to file an investment policy if we only have interim deposits in a bank (e.g., savings accounts or certificates of deposit) and/or investments in STAR Ohio?

Answer: No, while the Office of Auditor of State strongly recommends that all entities file an investment policy, Ohio Rev. Code § 135.14~~(N)~~(2) provides that if a subdivision does not file a policy with the Auditor of State, then that subdivision may only invest in interim deposits or STAR Ohio.

135.(O)(2)

RC 135.(O)(2) now additionally permits no-load money market mutual funds.

For counties, Ohio Rev. Code § 135.35(K)(2) provides that if the county does not file a policy with the Auditor of State, then the county may invest inactive money only in time certificates of deposit, savings or deposit accounts, or STAR Ohio.

135.(K)(2) also applies to county library funds, and now additionally permits no-load money market mutual funds.

(4) Does S.B. 81 apply to charter municipalities?

Answer: S.B. 81 and Ohio Revised Code Chapter 135 apply to all municipalities, except those that have adopted a charter under Article XVIII of the Ohio Constitution **and** whose charter or ordinances set forth special provisions respecting the deposit or investment of its public moneys.

(5) Does the copy of the investment policy with broker/dealer, investment advisory, and financial institution signatures need to be the one filed with the Auditor of State?

Answer: No, an entity need only file a copy of the adopted policy. Each entity should keep a copy on file with the required signatures. Auditors will examine this copy during the course of the regular audit.

(6) Is a sweep account considered an investment for the purposes of determining whether an investment policy must be filed?

Answer: Yes, sweep accounts are considered investments and, therefore, an investment policy must be filed even if the entity only has sweep accounts.

(7) Where do we file the investment policy?

Answer: Investment policies should be filed at the following address:

~~Jim Petro, Auditor of State~~
~~Attention: Clerk of the Bureau~~
~~P.O. Box 1140~~
~~Columbus, Ohio 43216-1140~~

See ***Investment Policies*** at:
http://www.ohioauditor.gov/resources/AOSNotificatons.html

(8) If we are not a county, do we have to prepare and file the investment inventory, monthly portfolio, and quarterly investment reports?

Answer: No, these reporting requirements only apply to counties.

(9) Does the Treasurer of State have to sign the investment policy if my entity invests in STAR Ohio?

Answer: No, neither the Treasurer of State nor any of his employees operating STAR Ohio are required to sign the investment policies of entities investing in STAR Ohio.

(10) Has the Auditor of State prescribed a form for the investment policy?

Answer: S.B. 81 did not prescribe the form and content of entity investment policies. However, S.B. 81 does require county investment policies to specify the conditions under which an investment may be redeemed or sold prior to maturity.

(11) Is the legislative body required to approve the investment policy?

135.14(O)(1)

Answer: For subdivisions other than counties, § 135.14 (~~N~~)(1) provides that the investment policy must be approved by the treasurer **or** governing board. Therefore, legislative approval is not required. However, to avoid problems, it is highly recommended that treasurers have the investment policies ratified by the subdivision's governing board.

For counties, Ohio Rev. Code § 135.35(K)(1) provides that the policy filed with the Auditor of State be approved by the "investing authority" (usually the county treasurer). However, Ohio Rev. Code § 135.341 requires the county investment advisory committee to establish written investment policies. Therefore, a county investment policy should be approved by the county investing authority (treasurer) and by the investment advisory committee.

(12) Why is "market value" included on the Auditor of State's prescribed county investment inventory form when S.B. 81 does not require this information?

Answer: Ohio Rev. Code § 135.35(L)(5) provides that the inventory report is to be on a form prescribed by the Auditor of State. Therefore, the Auditor of State has the authority to require this information. GASB ~~Statement No. 3~~ requires that market value of investments should be disclosed for each different type of investment. In addition, term repos must be marked to market daily. It also provides better decision making information and early warning to the county investment advisory committees and commissioners.

GASB Codification I 50.129 requires using fair value for instruments that qualify as investments. (Does not apply to deposits.)

(13) I am a subdivision treasurer. What training am I required to take?

<u>Answer</u>: County treasurers elected for the first time must take 26 hours of training (13 by the Auditor of State & 13 by the Treasurer of State) between December first and the first Monday of September following their election. After completing a year in office, county treasurers must complete ~~12 hours of annual~~ continuing education ~~given by~~ the Treasurer of State and the Auditor of State. County treasurers failing to comply are limited to investing in time certificates of deposit, deposit accounts or STAR Ohio. Those county treasurers who do not complete the required training and who are investing in other than STAR Ohio or deposit accounts may be subject to removal from office as provided in § 321.46(E).

RC 321.46 now requires 24 hours each biennial cycle.

Village clerks and clerk-treasurers elected for the first time must receive training provided by the Auditor of State. Village clerks and clerk-treasurers must also receive annual continuing education provided by the Auditor of State. Additionally, pursuant to § 135.22, Village **treasurers and clerk-treasurers** must complete continuing education provided by the Treasurer of State, unless they provide the Auditor of State a notice of exemption, certified by the Treasurer of State, that the subdivision only invests in interim deposits or STAR Ohio.

Under § 135.22, **all subdivision treasurers** (other than counties) must complete continuing education provided by the Treasurer of State, unless they provide the Auditor of State a notice of exemption, certified by the Treasurer of State, that the subdivision only invests in interim deposits or STAR Ohio. Please note that for the purposes of § 135.22, treasurer has the same meaning as in § 135.01 and includes any person whose duties include making investment decisions with respect to the investment or deposit of interim moneys.

AUDITOR OF STATE BULLETIN 97-003
JANUARY 20, 1997

TO: ALL TOWNSHIP CLERKS
ALL VILLAGE CLERK/TREASURERS
ALL COUNTY AUDITORS
ALL MUNICIPAL FINANCE DIRECTORS
ALL CITY AUDITORS
ALL SCHOOL TREASURERS
ALL LIBRARY CLERKS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: ACCOUNTING TREATMENT FOR INTER-FUND CASH ADVANCES
This bulletin replaces MAS Bulletin No. 85-09 issued December 17, 1985.

The purpose of this bulletin is to reissue a previous bulletin pertaining to the accounting treatment for inter-fund cash advances. Such a cash advance 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 this type of cash advance is to require repayment within the current year.

Inter-fund cash advances are subject to the following requirements:

1. 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, are intended to temporarily reallocate cash from one fund to another and involve an expectation of repayment;

2. 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;

3. 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

4. Advances must be approved by a formal resolution of the taxing authority of the subdivision. This resolution must include:

    a. A specific statement that the transaction is an advance of cash, and

    b. An indication of the money (fund) from which it is expected that repayment will be made.

Accounting Procedures

The following procedures (see examples on attached pages) are necessary to account for inter-fund advances:

1. **Cash Journal -** On the effective date of the resolution authorizing an advance, an entry should be made in the cash journal to reduce the cash balance of the creditor fund by the amount of the advance and to increase the cash balance of the debtor fund by the same amount.

2. **Ledger Accounts -** When the initial advance occurs, a ledger account for "Advances Out" must be established for the creditor fund. Similarly, a ledger account for "Advance In" must be established in the debtor fund. All pertinent information should be recorded on the ledger when the transaction is posted.

3. **Cash Journal -** On repayment of the advance in whole, or in part, an entry should be made in the cash journal to increase the cash balance of the creditor fund by the amount of repayment and to reduce the cash balance of the debtor fund by the same amount.

4. **Ledger Accounts -** When the advance is repaid, a ledger account for "Advances Out" will need to be established in the debtor fund to show the disbursement of the repayment. To record the receipt of the repayment in the creditor fund, a ledger account for "Advances In" will need to be established.

Budgetary Effects

An inter-fund cash advance does not directly affect the budgetary accounts of either the creditor or debtor funds when the advance is made or repaid. It merely is recorded in the cash journal to adjust the fund cash balances and in the ledger accounts to provide accountability. If, however, such an advance is not repaid at the end of the fiscal year, the altered cash balances must be taken into consideration in the preparation of the appropriation resolution.

When a cash advance is outstanding at the beginning of a fiscal year in which repayment is expected, the total resources available for expenditure in the creditor and debtor fund are misstated, as no provisions exists for the receipt of cash in the creditor fund or for the use of the debtor fund. To adjust for this, the unencumbered cash balance of the creditor fund must be increased by the amount of repayment expected during the succeeding 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 succeeding 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 Transfer

If, after an advance is made, the taxing authority determines that the transaction should, in fact, be treated as a transfer, the following procedures should be followed:

1. 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;

2. The transfer should be formally recorded on the records of the subdivision; and

3. The entries recording the cash advance should be reversed to, in effect, repay the advance with the proceeds of the transfer.

If you have any questions, please call the Local Government Services staff at (800) 345-2519.

We have updated the ORC references on pages 1 -- 7, but have not updated the legal guidance. Certain specific requirements have been amended and you should refer to an updated ORC. However, the accounting guidance on pages 8 - 13 and the appendices following page 13 still apply. Also see updated commissary guidance in Ohio Compliance Supplement Step 3-6.

AUDITOR OF STATE BULLETIN 97-011
July 2, 1997

TO: ALL COUNTY SHERIFFS
ALL BOARDS OF COUNTY CO
ALL COUNTY AUDITORS
ALL COUNTY PROSECUTORS
ALL MUNICIPAL LEGISLATIVE AUTHORITIES
ALL CITY AUDITORS
ALL MUNICIPAL FINANCE DIRECTORS
ALL MUNICIPAL LEGAL COUNSEL
ALL MULTIJURISDICTIONAL CORRECTION FACILITIES
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: ESTABLISHMENT OF CORRECTIONAL FACILITY COMMISSARIES/ COMMISSARY FUNDS AND REIMBURSEMENT OF PRISONER CONFINEMENT COSTS

Sub. H.B. 480 was enacted by the 121st General Assembly to be effective October 16, 1996. This legislation expands the types of costs that a political subdivision can require prisoners in a local correctional facility to reimburse, as follows:

- Specifies additional types of costs that may be recovered under the reimbursement, including the cost of an offender's medical treatment.

- Specifies a method for determining the amount of the reimbursement, including the requirement of having a judicial "reimbursement hearing." As an alternative, a "prisoner reimbursement policy" could be established specifying the types of costs an offender must reimburse.

- Eliminates an overlap with provisions contained in the new felony sentencing mechanism enacted in Am. Sub. H.B. 2 of the 121st General Assembly that pertains to reimbursement by felons of the costs of their incarceration in a local correctional facility.

- Provides for the establishment of inmate commissaries and commissary funds in county and municipal correctional facilities. Since the bill also allows for the hiring of civilian correctional officers in county jails, these civilian correctional officers could be used to run the commissaries.

- Permits county jails to contract for food services, medical services, and other services necessary for the care and welfare of offenders.

- Clarifies how the sheriff's "furtherance of justice fund" is to be calculated at the county level.

For the purpose of this bulletin, the analysis below addresses issues in the legislation that have a financial impact on the operation of a local correctional facility. For any additional provisions or changes, readers should refer to the Act form of Sub. H.B. 480.

Requirement of Reimbursement and Reimbursable Expenses: Ohio Rev. Code §§307.93(D), 341.14(B), 341.19(A), 341.23(C), 752.02(B), 753.04(B), 753.16(C), 2301.56(B), and 2947.19(B).

Prisoner Reimbursement in General

Sub. H.B. 480 provides for the reimbursement from prisoners confined in a correctional facility if they were convicted of an "offense," including those convicted of minor misdemeanors. This bill, therefore, distinguishes the types of offenses for which a local government is permitted to seek reimbursement from those contained in the State's new felony sentencing structure that was enacted in Am. S.B. 2 of the 121st General Assembly. Am. S.B. 2 permitted reimbursement of expenses only if the prisoner was convicted of a "misdemeanor other than a minor misdemeanor," whereas this bill allows entities to seek reimbursement from offenders of all sentences.

Previously, the costs of confinement included, but were not limited to, food, clothing and shelter. This legislation adds the following to the list of expenses of confinement for which the legislative authority or board of the local correctional facility would be able to seek reimbursement (including but not limited to):

- Expenses relating to the provision of medical care;
- Personal hygiene products, including toothpaste, toothbrushes, and feminine hygiene items;
- Up to two hours or overtime costs the sheriff or municipal corporation incurred which relate to the offender's criminal trial.

The amount of the reimbursement that can be sought by a local government may be the actual cost of the prisoner's confinement plus authorized trial overtime costs. However, if the legislative authority or board of the local correctional facility determines that a lesser amount should be charged, then the amount would be determined by a formula established by the correctional facility. The legislation provides that the formula must be applied uniformly to all persons incarcerated at the particular correctional facility.

753.02

Determination and Recovery of Reimbursement for the Costs of Confinement: Ohio Rev. Code §§ 307.93(D)~~(2)~~, 341.14(B)~~(2)~~, 341.19(A)~~(2)~~, 341.23(C)~~(2)~~, ~~752.02~~(B)~~(2)~~, 753.04(B)(2), 753.16(C)(2), 2301.56(B)(2), and 2929.18(A)(4)(b)(ii).

Misdemeanant Reimbursement

2929.233 replaced by 2929.28 & .37

For jurisdictions in which the legislative authority or board of the local correctional facility requires the offender convicted of a misdemeanor violation to reimburse the costs of confinement, the legislation revises the procedures for determining the amount that the offender must pay. In such a jurisdiction, the sentencing judge for the offender is required to hold a "reimbursement hearing" after the offender's release from confinement. Ohio Rev. Code § ~~2929.223~~. If the sentencing judge is no longer sitting on the bench of the court, another judge may hold the hearing instead. At this hearing, the judge is required to determine both the cost of confinement amount to be reimbursed and the amount the offender has the ability to pay. In making this determination, the bill limits the amount that can be reimbursed for the cost of medical treatment ~~to a maximum of 40% of the cost of the medical expense~~ incurred by the correctional facility. The other costs of confinement can be reimbursed up to the actual cost incurred by the correctional facility unless a lesser amount is established pursuant to a formula that is established and used uniformly, as described above.

Once an amount is determined for which the offender is responsible for reimbursing the correctional facility, then the "reimbursement hearing" judge is required to issue a judgement against the offender. This judgment must:

- State the amount that the offender is required to reimburse;
- Include a payment schedule established by the judge for the reimbursement;
- State that the reimbursement must be made to the appropriate local government for the expenses incurred as a result of the offender's confinement in the correctional facility.

If the payment schedule is not adhered to, the bill gives the legal counsel for the local government the authority to "execute upon" the judgment for the offender's failure to reimburse the entity.

Any amount received as a reimbursement for the costs of confinement must be paid into the treasury to the credit of the fund out of which the costs were originally expended.

Felon Reimbursement

H.B. 480 requires the court that sentences an offender convicted of a felony to impose a financial sanction under the felony sentencing mechanism contained in S.B. 2 for the costs of confinement in a local correctional facility if the local legislative authority or board that operates a local correctional facility is authorized to and imposes a requirement to be reimbursed for such costs. In addition, the court is permitted to impose any other financial sanctions authorized under the sentencing mechanisms established in S.B. 2.

A legislative authority or board operating a local correctional facility that is authorized to seek reimbursement from offenders for the costs of their confinement may adopt a resolution or ordinance specifying that it will *not* seek reimbursement from an offender under the provisions of S.B. 2. If this resolution or ordinance is adopted, a copy must be provided to the common pleas court of the county. Once received, the sentencing court cannot require the offender to reimburse the local government for the costs of confinement, but could impose any other financial sanction under S.B. 2.

If the legislative authority or board of the local correctional facility is either not authorized to or is silent regarding the reimbursement of such costs as described in the preceding two paragraphs, the sentencing court still has the option to impose sanctions for reimbursement of the costs of confinement to the local government under S.B. 2.

Any amount received as a reimbursement for the costs of confinement must be paid into the treasury to the credit of the fund out of which the costs were originally expended.

Alternative Procedure - Administrative Reimbursement Determination: Ohio Rev. Code §§ 307.93(E), ~~341.06(A)~~, 341.14(C), 341.19(B), 341.23(D), 752.02(C), 753.04(C), 2301.56(C), and 2947.19(C).

341.06 was repealed.

The bill creates, as an alternative to the above-described procedures, an administrative mechanism for reimbursement of certain expenses if a "prisoner reimbursement policy" is adopted. (For certain facilities, the sheriff would also have to agree to the adoption of the policy.) The policy would require the offender to reimburse the local government that operates the facility for any expenses incurred as a result of the offender's confinement. These expenses may include, but are not limited to, the following:

- A per diem fee for room and board for the entire time the offender is confined in the facility, which is the lesser of either the actual per diem cost or $60 per day;
- Actual charges for medical and dental treatment;
- The cost of any correctional facility property damaged by the inmate while in confinement.

The rate that is charged under a "prisoner reimbursement policy" must be determined using a sliding scale based upon the offender's ability to pay and the offender's other legal obligations to support a spouse, minor children and/or other dependents.

The person in charge of the correctional facility (i.e., the sheriff of a county jail) can appoint a coordinator to implement and administer provisions of the prisoner reimbursement policy. The coordinator has the ability, under the provisions of the bill, to investigate the financial status of the offender, including obtaining information such as income tax records and contacting an offender's employers.

The coordinator may collect amounts owed by an offender that are unpaid, or the legislative authority or board of the local correctional facility may enter into a contract with a public agency or private vendor to collect any unpaid amounts. Within one year of the offender's release from confinement, the legal counsel for the local government can file a civil action for the unpaid amount still due the local government under the reimbursement policy. Any reimbursement received as a result of a civil action filed on the local government's behalf should be credited to the entity's general fund and may be used for any proper public purpose.

Requested Medical Treatment Fees and Non-indigent Offenders: Ohio Rev. Code §§ 307.93(F), ~~341.06(B),~~ 341.14(C), 341.19(B), 341.21(C), 341.23(E), 753.02(D), 753.04(D), 753.16(D), 2301.56(D), 2947.19(D).

In addition to the fees for medical services described above, if medical treatment or service is provided at the offender's request, an offender can be charged a reasonable fee for the cost of providing the treatment or service. In order to charge a fee, however, the legislative authority or board of the local correctional facility must establish a policy to provide for the reimbursement of this type of expense.

The fee, if charged, cannot exceed the actual cost of the treatment or service provided and cannot be

341.06 has been repealed.

sought from indigent offenders. In addition, the fees collected for requested medical treatment or services must be paid into the facility's commissary fund if one has been established. If the facility has no commissary fund, the fees collected should be paid into the treasuries of the political subdivisions that incurred the expense of the treatment or service. For example, if a multijurisdictional board operates the facility and has no commissary fund, the fees would be allocated among the political subdivisions in the same proportion as the expenses were borne by them.

When a prisoner-requested medical treatment or service is provided, the payment of the required fee can be automatically deducted from the offender's account record that is maintained in the facility's business office. If there are no funds or insufficient funds in the offender's account, a deduction can be made at a later date during the offender's confinement if the funds become available. If an amount is still owed once the offender leaves confinement, the legislative authority or board of the local correctional facility may bill the offender for any unpaid balance.

County Jail Staff: Ohio Rev. Code §§ 341.05(A), (C), (D) and 341.20.

H.B. 480 enacts new staffing provisions which require the sheriff to assign sufficient staff to ensure the safe and secure operation of the county jail, but only to the extent that the staff can be provided with funds appropriated to the sheriff by the board of county commissioners. The compensation of all jail staff is to be paid from the county's general fund, upon the warrant of the auditor, in accordance with established county payroll procedures. The staff could include any of the following:

- A jail administrator;
- Jail officers, including civilian jail officers, to conduct security duties;
- Other necessary employees to assist in the operation of the jail.

County commissioners, with the consent of the sheriff, are authorized to contract with commercial providers for the provision of food services, medical services, and other programs and services necessary for the care and welfare of offenders placed in the sheriff's charge. In addition, the bill eliminates the requirement that the county commissioners provide quarters in the county jail for the use and convenience of female staff while on duty.

Commissaries and Commissary Funds: Ohio Rev. Code §§ 307.93(~~G~~), 341.24, 753.22, and 2301.57.

H.B. 480 enacts provisions allowing for the establishment of commissaries for county jails, municipal

Should be 307.93(F)

and municipal-county workhouses, community-based correctional facilities, district community-based correctional facilities, and multicounty, municipal-county and multicounty-municipal correctional centers. The commissaries may be established, respectively, by a sheriff, the director of public safety or the joint board that administers a workhouse, the director of a community-based correctional facility or district community-based correctional facility, or the corrections commission of a multicounty, municipal-county, or multicounty-municipal correctional center.

A commissary can be established either in-house or by other arrangement. Once established, however, all persons incarcerated must be given commissary privileges. The purchases from the commissary would be deducted from the person's account record that is maintained in the business office of the facility. The commissary is required to provide for the distribution of necessary hygiene articles and writing materials to indigent persons incarcerated in the facility.

Once a commissary is established, a commissary fund must also be established. **H.B. 480 requires the management of funds in the commissary fund be strictly controlled in accordance with the procedures adopted by the Auditor of State. (See Appendix 1 and exhibits 1 through 6.)** Commissary fund revenue in excess of operating costs and reserves is considered profit. The bill provides that all commissary fund profits must be spent for the purchase of supplies and equipment (not services, however) for the benefit of those incarcerated. In addition, the bill specifies that the sheriff, director of public safety, joint board, director, or corrections commission must adopt rules and regulations for the operation of any commissary fund established.

Fees for Housing Prisoners from Adjoining Counties in the County Jail: Ohio Rev. Code § 341.14.

Prior to the enactment of H.B. 480, Ohio Rev. Code § 341.14 required the county sheriff to collect 50 cents per week for each person confined in the county jail from another county. In addition, if the person was released prior to the expiration of his/her jail term, any amount advanced to the county sheriff would need to be refunded. H.B. 480 abolishes the 50-cent-per-week fee and, instead, requires the weekly deposit of an amount equal to the actual cost of housing and feeding the person incarcerated from another county.

Sheriff's Furtherance of Justice Fund: Ohio Rev. Code § 325.071.

H.B. 480 clarifies that the state-provided supplemental compensation paid annually to the county sheriff pursuant to Ohio Rev. Code § 325.06~~(C)~~ only, is not to be considered when calculating the

Is now 325.06(B)

614.466.4717 614.752.8683

amount of county general fund money to be granted a county sheriff for the furtherance of justice fund.

Should you have any questions pertaining to this bulletin, please contact the Auditor of State's Local Government Services Division at ~~1-800-345-2519~~ or the Legal Division at ~~1-800-282-0370.~~

APPENDIX 1

COMMISSARY AND INMATE FUNDS
ACCOUNTING POLICIES AND PROCEDURES

Since inmates do not have cash on their person while incarcerated to purchase items from the commissary, the following accounting policies and corresponding procedures are recommended when the local correctional facilities have established a commissary.

Policy No. 1: The director of the correctional facility should adopt rules and regulations for the operation of any commissary fund that is established.

Procedure The director should consider several factors for the operation for the commissary such as the items to be offered; the days and hours of operation; the method by which the inmates will place orders and/or make their purchases; prices of commissary items; and times and dates family members and friends can make deposits into the inmate's account. Additionally, a definition of what constitutes an indigent inmate for commissary purposes should be provided in these rules and regulations.

Policy No. 2: In order to account for each inmate's money, both receipt and expenditure, anan individual inmate account shall be established. (Exhibit 1).

Procedure (a) Money received for the inmate's account shall be recorded on duplicate receipts sequentially pre-numbered. One copy should be issued to the inmate or person giving money to the

credit of an inmate and one copy should be retained in the facility's file. The copies should be filed numerically. All money received to be credited to the inmates' accounts should be reconciled daily with duplicate receipts, postings to the inmate's ledger cards, and deposits.

Procedure (b) Moneys received for an inmate shall be posted on an individual inmate's ledger card or to an inmate's account maintained on a computer system. This money represents moneys taken at the time of incarceration and/or received after incarceration from friends or relatives.

Procedure (c) When purchases are made by the inmate, either for commodities or for medical expenses, the individual inmate's account shall be debited. A running balance shall be maintained on the inmate's individual account. Separate individual accounts shall be maintained for indigent inmates (Exhibit 2). The institution must provide indigent inmates in the institution necessary hygiene articles and writing materials.

Procedure (d) Each month the inmate shall receive a statement of their inmate account. The statement shall indicate the balance in the account and any deposits or purchases made during the month.

Policy No 3: Medical expenses requested by an inmate can be directly deducted from his/her commissary account if sufficient funds exist or become available during the inmate's period of imprisonment. If such deduction is made, a numbered billing should be completed with one copy provided to the inmate and one copy filed in the facility's files. Medical expenses that would be paid by the inmate should be defined in the institution's rules and regulations. If the inmate has no funds in his/her account, a deduction may be made at a later date during the inmate's confinement if funds later

become available in the inmate's account. If the inmate is released from the correctional facility and has an unpaid balance of these fees, the inmate may be billed for payment of the remaining unpaid fees.

Policy No. 4: An accounts receivable ledger shall be maintained to account for the cost of of requested medical expenses when there is insufficient money in the inmate'individual account at the time the cost is incurred.

Procedure (a) When there is insufficient money in the inmate's account, a posting should be made reflecting the inmate's identification and amount of charges to the accounts receivable ledger (Exhibit 3). When collection is made, the ledger shall be posted as paid. Money collected in this manner shall be paid into the commissary fund representing a reimbursement of the expense paid from the commissary fund.

Procedure (b) When money is not available in the inmate's account at the time the medical expense is incurred, the individual account should reflect an entry of such incurred expense. Any negative balances should agree to the accounts receivable ledger.

Policy No. 5: Proper documentation shall be maintained on all sales to the inmates.

Procedure (a) Inmates will be provided with pre-numbered ordering forms. The ordering form shall list all products available to be purchased by the inmate.

Procedure (b) As orders are filled, one copy of the order form shall be returned to the inmate with his/her order, and one copy should be filed sequentially. A posting shall be made on the individual account card reflecting the order number and amount. An accounting of the sequentially numbered unused forms shall be made monthly.

Policy No. 6: Accounting for the activity of the inmate's monies shall be maintained in an inmate cash book established by the correction facility. (Exhibit 4).

Procedure (a) All moneys received for the inmates' accounts shall be deposited daily into a checking account established by the local correctional facility. Moneys received on weekends, or at times when banks are closed, shall be placed in the bank's night deposit box. If money is collected during periods when the institution does not have available personnel on duty to deposit the funds, such funds shallbe placed in a sealed envelope together with the necessary information as to the amount of money and identification of the inmate. Such envelope shall be placed in a locked drawer until the next business day and then deposited by the designated person in charge of the commissary.

Procedure (b) A cash book shall be maintained showing daily receipts of money collected on behalf of the inmates, checks written to the commissary fund representing sales of merchandise or medical services, and upon release of the inmate, the checks written for the balance of the account drawn payable to the inmate. The cash book shall be balanced monthly with the depository account and reviewed by a person other than the person who makes the deposits and/or maintains the cash book. In addition, the cash book shall be reconciled with the individual inmate accounts and to the accounts receivable ledger on a monthly basis (see example in Exhibit 5).

Policy No. 7: The correctional facility shall maintain a monthly inventory record (Exhibit 6).

Procedure An inventory record shall be maintained of the merchandise in the commissary. Such record shall show the total dollar value of merchandise on hand at the beginning of each month, merchandise

purchased during the month, and merchandise used during the month. Merchandise used during the month may be calculated using completed order forms or estimated by reducing receipts for the month by the amount of any mark-up that has been added to the cost to create the selling price. These figures are then used to calculate the value of the merchandise that should be on hand at the end of the month. A physical inventory shall be taken at the end of each month, priced using the latest cost and compared to the amount calculated on the inventory record for reasonableness. The inventory record should be adjusted monthly to the physical inventory count. Significant monthly adjustments should be investigated and approved by a supervisor.

Policy No. 8: A commissary fund shall be established for the accounting of moneys received from sales to inmates, purchasing of merchandise, and payments for inmate medical expenses. This fund shall be established as a special revenue fund on the books of the fiscal officer. Budgetary procedures pertaining to this fund would be as follows:

Procedure (a) Money received from the inmate fund shall be posted to the official accounting records under the classifications “Sales”, “Medical” or “Other.” Monthly, a pay-in shall be made to the fiscal officer of the correctional facility to the credit of the commissary fund.

Procedure (b) A financial statement shall be generated monthly, showing total amount received, total amount expended for the month and balance in the fund year to date.

Policy No. 9: Profits from the commissary fund shall be spent in accordance with the provisions of Substitute House Bill No. 480.

Procedure (a) Profits may be determined on a monthly, quarterly, or annual basis and in determining such profits, the correctional facility must consider the following steps. (The salary of the person maintaining the commissary cannot be paid from the commissary account; however, if provided for in the policy and procedures established by the institution, an administrative fee may be charged to the commissary fund in determining profits.)

To determine profit, take the cash balance and deduct unpaid fees, reserve and add the ending inventory. This will provide the amount of profit which would represent the amount available for expenditures for the benefit of the inmates.

Procedure (b) All profits from the commissary fund shall be used to purchase supplies and equipment for the benefit of persons incarcerated in the correctional facility.

Procedure (c) The amount of the reserve shall not exceed 30 days of operating costs of the commissary fund.

Exhibit 1

INDIVIDUAL INMATE ACCOUNT FOR : LARRY KING
For 1997

Inmate No. 1002

Date	From Whom Received/ To Whom Paid	Receipt Number	Order Number	Debit	Credit	Accounts Payable to Commissary Fund	Balance
01/01/97							$0.00
01/01/97	Mary Valentine	1243			$50.00		$50.00
01/02/97	Purchases		542	$10.00			$40.00
01/05/97	Medical Expenses		548	$20.00			$20.00
01/15/97	Medical Expenses		587	$20.00		$10.00	($10.00)
01/25/97	Mary Valentine	1260			$50.00		$40.00
01/25/97	Medical Expenses - A/P			$10.00		($10.00)	$40.00
	Total			$60.00	$100.00	$0.00	$40.00
	Balance as of 12/31/97						$40.00

Exhibit 2

INDIVIDUAL INMATE ACCOUNT FOR : INDIGENT INMATE
For 1997

Inmate No.

Date	From Whom Received/ To Whom Paid	Receipt Number	Order Number	Debit	Credit	Balance
						$0.00
01/03/97	Memo-Toothpaste		545	$5.00		($5.00)
01/12/97	Memo-Notebooks		565	$7.00		($12.00)
01/15/97	Memo-Deodorant		575	$6.00		($18.00)
01/22/97	Memo-Shampoo		589	$8.00		($26.00)
	Total			$26.00	$0.00	($26.00)
	Balance as of 12/31/97					($26.00)

Exhibit 3

ACCOUNTS RECEIVABLE LEDGER
FOR 1997

Date	Inmate Number	Purpose	Insufficient Fund Amount - A/R	Debit	Credit	Cumulative Balance
01/10/97	1097	Medical Expense	($25.00)	$25.00		($25.00)
01/15/97	1002	Medical Expense	($10.00)	$10.00		($35.00)
01/25/97	1002	Medical Expense - Reimburse	$10.00		$10.00	($25.00)
		Total Balance as of 12/31/97	($25.00)	$35.00	$10.00	

INMATE CASHBOOK
Receipts

Exhibit 4

Date	Inmate Number	From Whom Received	Purpose	Receipt Number	Cash Received	Deposit Received	Deposits Applied	COMMISSARY FUND Purchases/ Sales	Medical	Refund upon Release	Insufficient Funds - A/R
01/01/97	1002	Mary Valentine		1243	$50.00	$50.00					
01/02/97	1002		Purchases				$10.00	$10.00			
01/04/97	1085	John Shaw		1249	$100.00	$100.00					
01/05/97	1002		Medical Expense				$20.00		$20.00		
01/10/97	1097		Medical Expense				$25.00				$25.00
01/15/97	1002		Medical Expense				$20.00		$20.00		$10.00
01/21/97	1075	Ginger Hill		1252	$75.00	$75.00					
01/25/97	1002	Mary Valentine		1260	$50.00	$50.00					
01/25/97	1002		Medical Expense - A/R				$10.00		$10.00		($10.00)
		Totals			$275.00	$275.00	$85.00	$10.00	$50.00	$0.00	$25.00
		Less Deposits Applied (Spent)				($85.00)	($85.00)	($10.00)	($50.00)	$0.00	($25.00)
		Cash Balance 1/31/97				$190.00	$0.00	$0.00	$0.00	$0.00	$0.00
		Month to Date Receipts	$275.00								
		Year to Date Receipts	$275.00								
		Balance 12/31/96	$0.00								
		Current month's receipts	$275.00								
		Current month's disbursements*	($85.00)								
		Cash Balance 1/31/97	$190.00								

*see Cash Disbursements Ledger

INMATE CASHBOOK
Disbursements

Exhibit 4 (cont'd)

Date	Inmate Number	To Whom Paid	Purpose	Check Number	Invoice Number	Amount Paid	Commissary Fund	Refund Upon Release	Accounts Payable To Commissary Fund
01/31/97		County Treasurer	Sales and Medical	4875	12495	$85.00	$60.00		$25.00
		Current Month Disbursements				$85.00	$60.00	$0.00	$25.00
		Year-to-Date Total Disbursements				($85.00)	($60.00)	$0.00	($25.00)

Exhibit 5

DEPOSITS RECEIVED RECONCILIATION
FOR JANUARY 1997

Inmate Account Balances	$190.00
Deposits Received Balance	$190.00

Inmate Number	Account Balance
1002	$40.00
1085	$100.00
1097	($25.00)
1075	$75.00
Total	$190.00

BANK RECONCILIATION
FOR JANUARY 1997

Inmate Cashbook Balance	$190.00
Outstanding Checks	$85.00
Bank Balance	$275.00

Exhibit 6

Physical Inventory Count
For the Month of _____

Item	Inventory on Hand	Cost per Item	Total Ending Cost

AUDITOR OF STATE BULLETIN 97-014
August 12, 1997

TO: All County Prosecutors
All County Auditors
All County Sheriffs
All County Commissioners
All Independent Public Accountants

SUBJECT: Furtherance of Justice Fund

INTRODUCTION

Recently, the Auditor of State has received numerous inquires regarding certain expenditures of Furtherance of Justice (F.O.J.) funds statutorily provided to county prosecutors and county sheriffs. In 1981, the Auditor of State's Office published Auditor of State Circular No. 81-7 which established guidelines regarding the proper use of F.O.J. funds. The information contained in Circular No. 81-7 is still applicable to the use of these funds and should be adhered to by county prosecutors and county sheriffs.

The following is a brief restatement of Circular No. 81-7 and some additional information regarding accounting for F.O.J. funds.

ALLOWANCE FOR F.O.J. FUNDS

In addition to other sources of funding, pursuant to Ohio Rev. Code §§ 325.12 and 325.071, a county prosecutor and county sheriff must be allowed, annually, an amount equal to one-half the officer's salary. This amount is commonly known as the F.O.J. Fund. This allowance is made upon order of the officer to be paid out of the General Fund in an amount not to exceed one-half of the officer's official salary. The officer may not receive this amount unless the officer gives bond in an amount not less than the officer's official salary. Once bond is given, the officer is entitled to the funds without further approval by the county commissioners.

Subject to two exceptions discussed below, the dollar amount provided to the F.O.J. fund is fixed by statute and may not be increased by any means. Donations to the F.O.J. fund are not permitted nor may additional funding be provided at the request of the county officer, even with the approval of the county commissioners. Furthermore, funds may not be transferred into the F.O.J. fund from

another fund, nor may F.O.J. funds be expended and then reimbursed at a later dated except in an emergency situation as described in the next section of this bulletin. The amount equal to one-half the officer's official salary is a not-to-exceed amount and additional funding above the statutory limit will be subject to a finding for adjustment in favor of the proper fund by the Auditor of State.

There are two exceptions to the above. The first is the allowance to county prosecutors provided by Ohio Rev. Code § 325.13. This section allows county prosecutors to appeal to the Common Pleas Court for an amount not to exceed $10,000 for the investigation and prosecution of criminal activities if F.O.J. funds are insufficient. The funds provided under Ohio Rev. Code § 325.13 are to be expended in the same manner as those funds provided under Ohio Rev. Code § 325.12.

The second exception is the authority of a Court, by statute, to distribute a fine or a portion of a fine by any method or on any term as the Court so chooses. In this situation, a Court may order a fine to be paid into a county prosecutor's or county sheriff's F.O.J. Fund. For this distribution to be permissible, a Court Order is required.

PERMISSIBLE EXPENDITURES OF F.O.J. FUNDS

F.O.J. funds may be used for expenses incurred in performance of the officer's official duties and in the furtherance of justice. Thus, the expenditure must be both in the performance of the officer's official duties and in the furtherance of justice to be allowable. While this allows for broad discretion and the Auditor of State will not ordinarily substitute its judgment for that of the officer, there is always the additional requirement that the expenditure must be for a proper public purpose.

In order to further assist the county prosecutor and county sheriff in their determination of whether an expenditure from the F.O.J. fund is proper, the following is a list of expenses using F.O.J. funds that have been determined to be allowable:

1. Mileage on a personal car when the car is used for official business. 1933 Op. Att'y Gen. No. 1687.

2. Medical experts to be used either before trial or to testify at trial. 1938 Op. Att'y Gen. No. 2124.

3. Membership dues only if directly related to the performance of the officer's official duties. 1938 Op. Att'y Gen. No. 2959.

4. The purchase of law books. 1939 Op. Att'y Gen. No. 1038.

5. To pay for an extra stenographer needed because of an unusually high case load. 1939 Op. Att'y Gen. No. 1038.

6. The payment of witness expenses which includes board and lodging. 1946 Op. Att'y Gen. No. 1277.

7. To pay for the costs of foreclosure proceedings. 1972 Op. Att'y Gen. No. 72-122.

8. Payment for the costs of obtaining municipal court transcripts. 1976 Op. Att'y Gen. No. 76-069.

9. To pay for the repair of private vehicles used in an emergency rescue operation. 1979 Op. Att'y Gen. No. 79-027.

10. To pay for meals, mementos and retirement gifts. 1982 Op. Att'y Gen. No. 82-006, and 1988 Op. Att'y Gen. No. 88-100.

11. Payment to settle a claim. Stokes v. St. Paul Fire and Marine Insurance Company, 35 Ohio App. 3d 97 (1987).

12. To pay for office equipment. 1988 Op. Att'y Gen. No. 88-100.

The F.O.J. fund is to be used for any purpose the officer, in his judgment, feels is an expense in the performance of his official duties and in the furtherance of justice. However, the board of county commissioners is statutorily authorized to make monetary allowances to be used for the payment of certain expenses. As discussed in Circular No. 81-7, if such an allowance has been made and funds are available, appropriated and unencumbered, the officer must first use these monies before using F.O.J. funds. If, however, the funds in the allowance made by the county commissioners have been exhausted or are already encumbered, F.O.J. funds may be used as payment for the expense.

As an exception to the above, if a situation arises in which monies are needed immediately and the usual procedure for obtaining prior appropriated and unencumbered monies is too time consuming, the expenditure may be made from the F.O.J. fund. The expenditure may be reimbursed from the normal appropriation account at a later date if monies are still available and unencumbered. The reimbursement expenditure from the normal appropriation account is subject to the requirements of Ohio Rev. Code § 5705.41.

Please note that the F.O.J. fund may never be used to circumvent compliance with competitive bidding requirements or prevailing wage laws.

CONFIDENTIALITY ISSUES

Auditor of State Circular No. 81-7 acknowledges the fact that county prosecutors and county sheriffs need to use F.O.J funds for confidential expenditures. However, Circular 81-7 also recognizes the public purpose need to document these expenditures and establishes methods for such documentation.

Circular No. 81-7 also allows an exception to the above. The documentation requirements do not apply in those situations where it is determined that maintenance of the required documentation would increase the risk of danger of physical harm or intimidation or would frustrate the purpose for which the confidential expenditure is made. It is within the county prosecutor or county sheriff's exercise of reasonable discretion to determine whether this exception applies. A necessary requirement to this exception is an affidavit executed by the officer setting forth 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 such 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.

ACCOUNTING FORMS

For your information, attached are examples of a general cash book detailing expenses from the F.O.J. fund and a bank reconciliation. Lastly, attached is an updated form to be used for the Furtherance of Justice Annual report.

If you have any questions or if you need a copy of Auditor of State Circular No. 81-7, please call the Auditor of State's Legal Division at 1-800-282-0370.

GENERAL CASHBOOK

FURTHERANCE OF JUSTICE FUND

DATE	DESCRIPTION	RECEIPT NUMBER	CHECK NUMBER	VARIOUS EXPENDITURES				CREDIT	BALANCE
				NARCOTICS & VICE ACTIVITY	PURCHASE OF STOLEN PROPERTY	CANINE EXPENSES	OTHER		
01/01/97	INITIAL DEPOSIT			$0	$0	$0	$0	$15,000	$15,000
01/31/97	MTD TOTALS			0	0	0	0	15,000	15,000
01/31/97	YTD TOTALS			0	0	0	0	15,000	15,000
02/19/97	SGT. GREEN - STOLEN PROPERTY PURCHASE		1072	0	250	0	0		14,750
02/21/97	SGT. GREEN - UNEXPENDED MONEY FROM PROPERTY PURCHASE	110		0	(25)	0	0		14,775
02/28/97	MTD TOTALS			0	225	0	0	$0.00	225
02/28/97	YTD TOTALS			0	225	0	0	15,000	$14,775
03/19/97	SGT. CLARK - DRUG BUY		1073	150	0	0	0		14,625
03/20/97	SGT. TRUE - DRUG BUY		1074	255	0	0	0		14,370
03/24/97	SGT. TRUE - UNEXPENDED MONEY FROM DRUG BUY	111		(20)	0	0	0		14,390
03/31/97	MTD TOTALS			385	0	0	0	$0.00	385
03/31/97	YTD TOTALS			385	225	0	0	15,000	14,390
04/05/97	SGT.FLAKE - STOLEN PROPERTY PURCHASE		1075	0	500	0	0		13,890
04/23/97	CAPT. BLACK - STOLEN PROPERTY PURCHASE		1076	0	1,000	0	0		12,890
04/30/97	SGT. STAKE - DRUG BUY		1077	5,000	0	0	0		7,890
04/30/97	MTD TOTALS			5,000	1,500	0	0	$0.00	6,500
04/30/97	YTD TOTALS			5,385	1,725	0	0	15,000	7,890
05/02/97	SGT. FLAKE - UNEXPENDED MONEY FROM PROPERTY PURCHASE	112		0	(350)	0	0	$0.00	8,240
05/06/97	SGT. GREEN - DRUG BUY		1078	2,000	0	0	0		6,240
05/31/97	MTD TOTALS			2,000	(350)	0	0	$0.00	1,650
05/31/97	YTD TOTALS			7,385	1,375	0	0	15,000	6,240
09/01/97	CAPT. BLACK - STOLEN PROPERTY PURCHASE		1079	0	500	0	0		5,740
09/13/97	CAPT. BLACK - UNEXPENDED MONEY FROM DRUG BUY	113		0	(10)	0	0		5,750
09/30/97	MTD TOTALS			0	490	0	0		490
09/30/97	YTD TOTALS			7,385	1,865	0	0	15,000	5,750
12/18/97	CAPT. BLACK - DRUG BUY		1080	3,000	0	0	0		2,750
12/20/97	CAPT. BLACE - UNEXPENDED MONEY FROM DRUG BUY	114		(40)	0	0	0		2,790
12/31/97	MTD TOTALS			2,960	0	0	0		2,960
12/31/97	YTD TOTALS			10,345	1,865	0	0	15,000	2,790
12/31/97	COUNTY TREASURY - RETURN BALANCE TO ZERO		1081	0	0	0	0	-2790	0

NOTE: This example is to be used for the Individual and the Combined Cashbook Systems.

SAMPLE BANK RECONCILIATION
FOR JANUARY 1997

Ending Bank Balance Per F.O.J. Fund	$ 2,790.00	

Total Depository Balance	$2,790.00	
Less - O/S Checks	2,790.00	

Adjusted Bank Balance	0.00	
Cashbook Balance as of 1/31/97		$ 00.00

FURTHERANCE OF JUSTICE ANNUAL REPORT

COUNTY SHERIFF'S OFFICI

Description	Actual Receipts	Actual Expenditures
Receipts:		
1996 Allocation	$15,000	
Reimbursements from General Fund	0	
Expenditures:		
Narcotics and Vice Activity		10,345
Stolen Property Purchases		1,865
Canine Expenses		0
Other		0
Totals	$15,000	$12,210
Total Due To County Treasury	$2,790	

Auditor of State Bulletin 97-019
December 24, 1997

TO: ALL COMMON PLEAS COURTS
ALL COUNTY COURTS
ALL JUVENILE COURTS
ALL MAYORS COURTS
ALL MUNICIPAL COURTS
ALL PROBATE COURTS
ALL CLERKS OF COMMON PLEAS COURTS
ALL CLERKS OF COUNTY COURTS
ALL CLERKS OF JUVENILE COURTS
ALL CLERKS OF MAYORS COURTS
ALL CLERKS OF MUNICIPAL COURTS
ALL CLERKS OF PROBATE COURTS
ALL CITY AUDITORS AND FISCAL OFFICERS
ALL COUNTY AUDITORS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: COMPUTERIZATION OF THE COURT AND CLERK OF COURT'S FEES

Introduction

Common Pleas, County, and Municipal Courts are given the authority to assess additional fees on the filings of certain causes of action to be used for the computerization of the court and the clerk of court's office. Shortly after Ohio law was changed to permit the assessment of these fees, the Auditor of State's Office published MAS Bulletin 93-02, which gives guidance on the accounting treatment for the fees collected and provides examples of the types of expenditures that are permitted. The information contained in MAS Bulletin 93-02 is still applicable to the use of these funds and should be adhered to by the courts and by city fiscal officers and county auditors. The purpose of this bulletin is to expand on the guidance given in MAS Bulletin 93-02.

Assessment of Fees for Computerization

The authority to charge additional fees to computerize either the court itself or the clerk of the court's office is derived from the language of Ohio Rev. Code § 2303.201 for common pleas courts, § 1907.261 for county courts, and § 1901.261 for municipal courts. While there is no provision in Ohio Rev. Code Ch. 1905 that explicitly establishes a mayor's court computerization fund similar to Ohio Rev. Code §§ 1901.261 and 1907.261, it is the Auditor of State's opinion that the mayor's courts are also able to establish a computer fund. The language in Ohio Rev. Code § 1905.02 states that the provisions of Ohio Rev. Code Ch. 1907 are applicable in municipal corporations in which the mayor's court is located within the jurisdiction of a county court. If, however, the mayor's court is within the jurisdiction of a municipal court, then based upon the language of Ohio Rev. Code § 1901.261, the municipality should submit a written request to our Office's Local Government Services Division to establish a Mayor's Court Computerization Fund

Now increased to $6 for common pleas courts.

pursuant to Ohio Rev. Code § 5705.12.

These Code provisions state that the court can authorize and direct the clerk of its court to charge an additional fee for the causes of action listed in Ohio Rev. Code § 2303.20 (A), (Q), or (U), if it determines that additional funds are necessary to computerize the operations of the court. *See* Ohio Rev. Code §§ 2303.201(A)(1), 1907.261(A)(1), and 1901.261(A)(1). The fee charged to computerize the operations of the court cannot exceed $3, and the amount selected must be placed in a special revenue fund of the city or county.

Except $20 for common pleas courts.

In addition to assessing fees to computerize the operations of the court, the court may determine that additional funds are necessary to computerize the office of the clerk of its court. If such a determination is made, then the court can direct the clerk of court to charge an additional fee which must not exceed $10 for the causes of actions listed in Ohio Rev. Code § 2303.20(A), (P), (Q), (T) and (U). *See* Ohio Rev. Code §§ 2303.201(B)(1), 1907.261(B)(1) and 1901.261(B)(1). Unless the legislative authority has issued general obligation bonds for the purchase and maintenance of a computer system for the clerk of court's office, the funds collected to computerize the clerk of court's office must be distributed to the credit of the special revenue fund of the city or county which has been established for the receipt of these funds. If, however, the legislative authority has issued general obligation bonds for computerization of the office of the clerk of court, the funds collected could then be expended to pay debt charges and financing costs related to the bond issuance. *See* Ohio Rev. Code §§ 2303.201(B)(2), 1907.261(B)(2), and 1901.261(B)(2).

Except $6 for common pleas courts.

Except $20 for common pleas courts.

Permissible Expenditures of Computerization Fees

The fee assessed for the computerization of the courts pursuant to division A(1), which must not exceed $3 per filing, may be used for the computerization of any aspect of the court, including the acquisition and maintenance of legal research software and hardware for court personnel. The fee, not to exceed $10 per filing, that is charged pursuant to division (B)(1), may be used *only* for the computerization of the clerk of court's office. The Code provisions establishing the authority to assess fees for computerization costs distinguish the fees that may be charged for the clerk of court's office from the fees that may be charged to computerize the court itself; as such, fees charged pursuant to (B)(1) to computerize the clerk of court's office are not permitted to be used for computerization of the court in general. For this reason, it is advisable that, when judgment entries are issued by the court to expend funds for computerization purposes, it be made clear in the judgment entry from which source of revenue the court desires to expend the funds.

As discussed in MAS Bulletin 93-02, the following areas are considered appropriate expenditures for computerization purposes: computer space; computer electrical; computer air-conditioning; computer furniture; computer hardware; computer software; subscriptions to computer services; staff expenses related to operating the computer system, including fringe benefits; computer supplies, for example computer paper, diskettes, etc.; training expenses; maintenance of equipment as well as computer needs studies. It is important to note that this list should be used as a guide for the court to determine if the expenditure would be considered appropriate for computerization purposes and should by no means be considered exhaustive.

If you have any questions or if you require a copy of MAS Bulletin 93-02, please contact the Auditor of State's Legal Division at 1-800-282-0370.

AOS BULLETIN 98-002

TO: ALL COUNTY AUDITORS
ALL COUNTY COMMISSIONERS
ALL COUNTY TREASURERS
ALL CITY FINANCE DIRECTORS
ALL CITY AUDITORS
ALL CITY TREASURERS
ALL SCHOOL DISTRICT TREASURERS
ALL JOINT VOCATIONAL SCHOOL DISTRICT TREASURERS
ALL EDUCATIONAL SERVICE CENTER TREASURERS
ALL LIBRARY CLERK/TREASURERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: GASB STATEMENT 31

Note: GASB Statement No 72, *Fair Value Measurement and Application* and GASB Statement No. 79, *Certain External Investment Pools and Pool Participants* have superceded certain requirements of GASB Statement No. 31. The changes to GASB 31 resulting from the implementation of GASB 72 and GASB 79 have been incorporated into this bulletin. The additional requirements of GASB 72 and GASB 79 have not been incorporated into this bulletin. Those GASB pronouncements should be reviewed for additional reporting requirements. Also, GASB Statement No. 62 should be reviewed for guidance related to valuing common stock.

GASB Statement No. 31, "Accounting and Financial Reporting for Certain Investments and for External Investment Pools" was effective for financial statements for periods beginning after June 15, 1997. The Statement establishes accounting and reporting guidelines for government investments and investment pools. This bulletin contains a summary of the Statement's guidelines and requirements. Following the summary is a Question and Answer section that addresses the application of these provisions to Ohio local governments who prepare financial statements in accordance with generally accepted accounting principles. This bulletin is not intended to serve as a substitute for reading the original Statement~~. The Statement may be obtained by calling GASB at the number identified in Q.15 of the Q+A section of this bulletin.~~ The Statement may be obtained using the website link identified in Q.15 of the Q+A section of this bulletin. This bulletin was reviewed by the research staff of the GASB prior to its 1997 release.

Local Government Reporting

This statement requires governments to report investments at fair value on the balance sheet, with certain exceptions.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date~~.~~. For most investments, fair value will be based on the quoted market price. For investments in open-end mutual funds, fair value is determined by the fund's current share price. For investments in external investment pools that are not registered with the Securities and Exchange Commission, fair value is determined by the fair value per share of the pool's underlying portfolio~~.~~ , unless the pool measures its investments at amortized cost in accordance with paragraph 4 of GASB Statement No. 79 (such as STAROhio).

There are exceptions to the fair value requirement, including (See also GASB Statement No. 72 paragraph 69 for a more detailed list):

1. Investments in nonparticipating interest-earning investment contracts (savings accounts, nonnegotiable certificates of deposit and repurchase agreements) are reported at cost.

2. Money market investments and participating interest-earning investment contracts (negotiable certificates of deposit) may be reported at amortized cost provided that the investment had a remaining maturity of one year or less at the time of purchase by the government. Money market investments are short-term, highly liquid debt instruments including commercial paper, banker's acceptances, and U.S. Treasury and agency obligations.

   3. Investments in pools that measure their investments at amortized cost in accordance with paragraph 4 of GASB Statement No. 79 should be measured at the NAV per share provided by the pool. The NAV per share is calculated on an amortized cost basis that provides a NAV per share that approximates fair value.

Changes in the fair value of investments is either reported as part of investment income in the operating statement or in a separate account. If identified separately from interest, the change in the fair value of investments must be captioned "net increase (decrease) in the fair value of investments".

The Statement establishes guidelines for reporting investment income that is not allocated to the fund that earned it. If interest associated with one fund is assigned to another fund because of legal or contractual provisions, the interest is to be reported directly in the recipient fund and not reported as a transfer. If the interest is assigned to another fund for other than legal or contractual reasons - for example, management discretion - the interest should be reported in the fund that reports the investments and the distribution of the interest reported as an operating transfer.

Governments must make the following disclosures:

~~The methods and significant assumptions used to estimate the fair value of investments, if that fair value is based on other than quoted market prices;~~ (This disclosure requirement has been replaced by the requirements of GASB Statement No. 72 paragraph 81.)2. The policy for determining which investments, if any, are reported at amortized cost;

3. For any investments in external investment pools that are not SEC registered (such as STAROhio), a brief description of any regulatory oversight for the pool and whether the fair value of the position in the pool is the same as the value of the pool shares;
4. Any involuntary participation in an external investment pool;
5. If an entity cannot obtain information from a pool sponsor to allow it to determine the fair value of its investment in the pool, the methods used and significant assumptions made in determining that fair value and the reasons for having had to make such an estimate;
6. Any interest from investments associated with one fund that is assigned to another.

Pool Reporting

An internal investment pool is an arrangement that commingles the monies of more than one fund or component unit of a reporting entity. The equity position of each fund or component unit in an internal investment pool should be reported as assets in those funds or component units.

An external investment pool is an arrangement that commingles the moneys of more than one legally separate entity and invests, on behalf of the participants, in an investment portfolio; one or more of the participants is not part of the sponsor's reporting entity. An external investment pool can be sponsored by

Investment trust and custodial (formerly called agency) must now meet the criteria of GASB 84 to be classified as fiduciary funds. See AOS Bulletin 2020-03.

an individual government, jointly by more than one government or by a nongovernmental entity. Investing on behalf of the participants means that the participants receive an allocation of the interest earned by the pool.

A local government that sponsors an external investment pool should report the external portion of the pool as a separate investment trust fund using the economic resources measurement focus and full accrual accounting. In the GPEFS, this fund will be presented as part of the ~~trust and agency~~ fiduciary funds on the balance sheet. The difference between external pool assets and liabilities will be presented as "net position held in trust for pool participants". The activity of the fund will be reported in a separate statement of ~~changes in~~ When a pool does not issue a separate report, the GPEFS of the sponsoring government must include the following note disclosure:

1. A brief description of any regulatory oversight;
2. The frequency of determining the fair value of investments;
3. The method used to determine participant's shares sold and redeemed and whether that method differs from the method used to report investments;
4. Whether the pool sponsor has provided or obtained any legally binding guarantees during the period to support the value of shares;
5. The extent of involuntary participation in the pool, if any. Involuntary participants are those that are required by legal provisions to invest in the external investment pool;
6. A summary of the fair value, the carrying amount (if different from fair value), the number of shares or the principal amount, ranges of interest rates, and maturity dates of each major investment classification.
7. The fair value disclosures required by GASB 72 paragraphs 80 - 82.
8. Disclosures required by GASB Statements 3 and 28;
9. Condensed statements ~~offiduciary net position and changes in fiduciary net position~~. If a pool includes both internal and external investors, those condensed financial statements should include, in total, the net position held in trust for all pool participants, and the equity of participants should distinguish between internal and external portions.

External investment pools must report investments at fair value on the balance sheet, with three exceptions:

1. Investments in nonparticipating interest-earning investment contracts should be reported using cost.
2. Pools that meet the criteria in paragraph 4 of GASB Statement No. 79 may elect to report their investments at amortized cost. ~~2a7-like pools may report their investments at amortized cost. A 2a7-like pool is a pool that is not SEC registered but has a policy that it will, and does, operate in a manner consistent with rule 2a7 of the Investment Company Act of 1940.~~External investment pools may report debt instruments with a remaining maturity of up to ninety days as of the date of the financial statements at amortized cost. For an investment that was originally purchased with a longer maturity, the investment's fair value on the day it becomes a short-term investment should be the basis for purposes of applying amortized cost.

When investments of an internal and an external investment pool are commingled, the investments must be reported using the guidelines for an external investment pool, i.e. money market investments

and participating interest-earning investment contracts may not be reported at amortized cost even if the investment had a remaining maturity of one year or less at the time of purchase by the government.

Individual Investment Accounts

An individual investment account is an investment service provided by a governmental entity for other, legally separate entities that are not part of the same reporting entity. With individual investment accounts, specific investments are acquired for individual entities and the income from and the changes in value of those investments affect only the entity for which they were acquired. The investments of individual investment accounts should be reported in an investment trust fund. The entity for whom the investments are acquired would reflect the changes in fair value of the investments on its financial statements. If individual investment accounts are offered as an alternative to a pooled position, the individual accounts should be reported in a different investment trust from the pool.

Questions and Answers

The following questions and answers are presented in the hope of anticipating some of the more common implementation issues.

Q1. Is a local government that invests dollars held for other governmental entities operating an external investment pool if the other governmental entities do not receive an allocation of the interest earned on those investments?

A1. No.

Q2. Is the county operating an external investment pool for all the other local governments forwhom it collects taxes?

A2. No, the local governments view this money as a receivable, not as an investment, and receivables are not covered by Statement 31.

Q3. May local governments voluntarily invest in external investment pools operated by another local government?

A3. No, provisions in Am. Sub. S. B. 81 prohibit voluntary investments by Ohio local governments in a pool established by another local government for investment purposes; however, many Ohio local governments are involuntary participants in external investment pools. Involuntary participation occurs when the treasurer of one local government is mandated by State statute to also serve as treasurer of a second local government, and the treasurer pools the money of both governments for investment purposes.

Q4. Is a local government operating an external investment pool if, when serving as the fiscal officer for another entity, it invests the entity's money and allocates to the entity the interest earned on the investments?

A4. If the local government commingles that entity's money with its own for investment purposes, yes. If it keeps the entity's investments separate from its own and returns the interest from

This disclosure is no longer required.

those investments to the entity, it is providing an individual investment account rather than an external investment pool.

When the entity participates in either an external investment pool or an individual investment account, its assets will appear as part of an investment trust fund and not as ~~an agency~~ a custodial fund in the GPEFS of the local government. The assets of the entity would be reported in ~~an agency~~ a custodial fund on the GPEFS of the local government only if no allocation of interest is made to the entity; ~~in this situation, there should be note disclosure explaining that the entity receives no interest and therefore the local government is not sponsoring an external investment pool.~~

Q5. School districts invest and allocate interest to auxiliary services money. Are these school districts operating an external investment pool?

A5. No. Auxiliary services money is reported as a special revenue fund and is considered part of the internal investment pool.

Q6. A governmental entity that participates in an external investment pool is required to disclose whether the fair value of the position in the pool is the same as the value of the pool shares. Is this disclosure intended to address this relationship only as it exists at the entity's year-end?

Q6a. How can that be done when the pool does not issue shares?

A6. Yes.

A6a. Obviously no conclusion about the value of pool shares can be reached when the pool does not issue shares. A statement that each participant is allocated a pro rata share of each investment at fair value along with a pro rata share of the interest that it earns may serve as an alternative disclosure. This means, however, that fair value must be used to allocate investment gains and losses among participants frequently enough to insure that every participant shares equitably in both fair market gains and losses.

Q7. If in a local government that operates an internal investment pool, the elected legislative authority may legally allocate interest among funds by ordinance or resolution, is this assignment considered to be "for other than legal or contractual reasons"?

A7. No, the ordinance or resolution would be considered a legal provision.

Q8. A governmental entity that operates an internal investment pool is required to disclose any income from one fund that is assigned to another fund. Does this include funds that, because of management's exercise of discretion, are not permitted to keep the interest they earn?

A8. No, disclosure is not required if the fund that earned the interest reports the revenue and transfers the revenue to another fund.

Q9. A governmental entity that operates an internal investment pool is required to disclose any income from one fund that is assigned to another fund. Does this mean that an amount must be disclosed for every fund that does not receive or get to keep its interest?

A9. No. For each fund receiving more than the interest it would have received based on its share of the investments, the disclosure should identify the amount the fund would have received based on its share of the investments and the amount actually received.

Q10. Should funds that are not allocated interest because of legal or contractual provisions report changes in the fair value of their share of the investments? If not, should they report their share of investments at cost? If the change in fair value of investments is only reported in the funds that receive interest, how is the change allocated among these funds?

A10. No. Funds that are not allocated interest because of legal or contractual provisions should not report changes in the fair value of their share of the investments. These funds should report their share of investments at cost. The change in fair value should be allocated among the funds that receive interest using the same formula that is used for the interest allocation.

Q11. What if there is a decline in the fair value of the investments that are part of the pool or if investments of the pool are sold at a loss? How are the losses to be allocated?

A11. If the loss is only in fair value and a loss will be avoided if the investments are held to maturity, it is recommended that the loss be allocated in the same manner as a gain or interest. If a loss is recognized, the only legal guidance comes from an Attorney General's opinion which states that any allocation of the loss by the government must be reasonable.

Q12. When a local government operates an external investment pool, provides individual investment accounts, and issues GPFS, would the government present a combined statement of changes in net assets that includes both the pool and the investment account(s)?

A12. Yes.

Q13. How do I report and disclose my investment in STAROhio?

A13. Suggested disclosure for local governments that participate in STAROhio follows: ~~The (local government) has invested funds in the State Treasury Asset Reserve of Ohio (STAROhio) during 1997. STAROhio is an investment pool managed by the State Treasurer's Office which allows governments within the State to pool their funds for investment purposes. STAROhio is not registered with the SEC as an investment company, but does operate in a manner consistent with Rule 2a7 of the Investment Company Act of 1940. Investments in STAROhio are valued at STAROhio's share price which is the price the investment could be sold for on December 31, 1997.~~

During 2018, the local government invested in STAR Ohio. STAR Ohio (the State Treasury Asset Reserve of Ohio), is an investment pool managed by the State Treasurer's Office which allows governments within the State to pool their funds for investment purposes. STAR Ohio is not registered with the SEC as an investment company, but has adopted Governmental Accounting Standards Board (GASB), Statement No. 79, "Certain External Investment Pools and Pool Participants." The School District measures their investment in STAR Ohio at the net asset value (NAV) per share provided by STAR Ohio. The NAV per share is calculated on an amortized cost basis that provides an NAV per share that approximates fair value.

For 2018, there were no limitations or restrictions on any participant withdrawals due to redemption notice periods, liquidity fees, or redemption gates. However, twenty-four hours advance notice is appreciated for deposits and withdrawals of $25 million or more. STAR Ohio reserves the right to limit the transactions to $100 million per day, requiring the excess amount to

be transacted the following business day(s), but only to the $100 million limit. All accounts of the participant will be combined for these purposes.

Note: This disclosure will need updated as STAROhio's policies change.

Q14. What do I need to do to get ready to implement this Statement?

A14. This Statement will focus attention on the method used by a local government for the

distribution of interest among its own funds as well as the distribution of interest to funds the local government maintains for another entity. If you have concerns about whether the distribution you are making is appropriate, check with your statutory legal counsel.

~~You will need to know the fair value of your investments both at the beginning and the end of the year for which the Statement is implemented. Schools will need fair value information as of June 30, 1997, and 1998. Other local governments reporting under GAAP will need fair values as of December 31, 1997, and 1998. The beginning of the year information should be available in the notes to the financial statements for the fiscal 1997 GAAP report for schools and the calendar 1997 GAAP report for other local governments~~.

Q15. Is there other information available that might help in the implementation of this Statement?

A15. The GASB has published an Implementation Guide for Statement No. 31. It consists of a series of questions and answers designed to assist local governments in the implementation of these new provisions. It is available from GASB's website:

https://www.gasb.org/jsp/GASB/Page/GASBSectionPage&cid=1176160042391

You should refer to RC 121.37 for the exact, current requirements.

AUDITOR OF STATE BULLETIN 98-007
September 3, 1998

TO: County Family and Children First Councils
County Auditors
Boards of County Commissioners
County Boards of Alcohol, Drug Addiction and Mental Health Services
County Boards of Health
City Health Districts
County Departments of Human Services
County Departments of Children Services
County Boards of Mental Retardation and Developmental Disabilities
County Boards of Education or Educational Service Centers
County Juvenile Courts
Independent Public Accountants

SUBJECT: County Family & Children First Councils: Financial Reporting and Internal Controls; Audits; Allowable Costs; Appointment of Administrative Agent and Budgeting

The purpose of this bulletin is to:

- Clarify the responsibilities of the County Family and Children First Councils (FCFCs) in the areas of financial reporting and internal controls;
- Explain the nature, timing, and scope of the Auditor of State's audit of the FCFCs and the standards applicable to those audits;
- Discuss the significant revisions to Ohio Rev. Code Section 121.37, which became effective October 1, 1997, requiring all FCFCs to appoint an administrative agent and file an annual budget.

FINANCIAL REPORTING AND INTERNAL CONTROLS

The FCFC is responsible for maintaining accounting records and such other documentation of council activities that would enable it to prepare, or have prepared on its behalf, cash basis financial statements and to demonstrate compliance with applicable laws, regulations and contracts. Typical records include evidence supporting proper receipt and expenditure of funds, minutes of meetings, contracts and grant agreements, and program guidance from grantors.

The FCFC is responsible for the design and implementation of an internal control process that provides reasonable assurance as to the integrity of its financial reporting, the safeguarding of its assets, the efficiency and effectiveness of its operation, and its compliance with applicable laws, regulations and contracts.

In designing its internal control process, the FCFC should consider policies and procedures that provide for the following:

- Appropriate authorization and approval of transactions
- Adequately designed records to facilitate classification and summarization of transactions
- Security of assets and records
- Segregation of incompatible duties
- Periodic reconciliations of account balances
- Periodic verification of assets

Or June 30, 1998 and after

$750,000

COUNCIL AUDITS

Audits of FCFCs for years ended December 31, 1997 and after will be scheduled to coincide with the audit of its respective county. Although scheduled concurrently, the FCFC audits will be separate engagements from the county audits and the audit costs will be the responsibility of each FCFC. Each FCFC will be audited biennially, unless the FCFC expends ~~$300,000~~ or more of federal funds in a calendar year. In such cases, the FCFC is required to have an annual audit performed in accordance with ~~OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*~~. All audits will be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS).

Title 2 U.S. *Code of Federal Regulations* Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance)

ALLOWABLE COSTS

FCFCs may receive funds from federal, state, local, and private sources. ~~OMB Circular A-87~~, along with the terms and conditions of federal grants, provide the guidance for allowable costs to be charged against the federal grants. Policies of the state and local grantor agencies and the terms and conditions of the grants provide the guidance for allowable costs to be charged against state and local grants.

Generally, costs must be necessary and reasonable for the intended purpose of the funds provided. In addition, they must be consistent with the laws, regulations, contracts, and agreements that govern the expenditure of such funds.

REVISIONS TO LEGISLATION - FCFC ADMINISTRATIVE AGENTS AND BUDGETS

Administrative Agents

House Bill 215, effective October 1, 1997, amended Ohio Rev. Code Section 121.37 to require each FCFC to designate an administrative agent for the FCFC. The administrative agent must be selected from one of the public entities listed in the legislation, and is **required** to perform the following functions which may not be delegated to another entity:

- Serve as the FCFC's appointing authority; and
- Ensure that all expenditures are handled in accordance with policies, procedures, and activities prescribed by State departments in rules or interagency agreements that are applicable to the FCFC's functions.

The amended legislation further provides that the administrative agent **may** be charged with other administrative and fiscal responsibilities such as:

- Entering into agreements or administering contracts with public or private entities to fulfill specific FCFC business;
- Provide financial stipends, reimbursements, or both to family representatives for expenses related to FCFC activity;
- Receive by gift, grant, devise, or bequest any monies, lands, or other property for the purposes for which the FCFC is established. The agent must hold, apply, and dispose of the monies, lands, or other property according to the terms of the gift, grant, devise, or bequest.

We recommend that all duties which have been delegated by the FCFC to its administrative agent be documented in a **written** administrative agent agreement. This agreement should clearly outline the specific authority and responsibility of each party. Recommended items to address in the agreement include:

- What financial records the administrative agent will provide to the FCFC on a monthly basis for the FCFC's review (e.g. detailed ledgers reflecting actual receipts and disbursements of the FCFC as compared to budgeted receipts and disbursements, including a breakdown of receipts and disbursements for each federal award, and periodic reports required by grantor agencies that are prepared by the administrative agent).

- Whose responsibility it is to prepare the monthly financial information which is presented to the FCFC, as well as, the FCFC's year-end financial statements and Schedule of Expenditures of Federal Awards which are presented for audit.

- Whose responsibility it is to identify federal financial assistance to subrecipients and

auditors.

Uniform Guidance §200.330 -- .332

- If the administrative agent has the role of passing-through grants on behalf of the FCFC, the agreement should address what subrecipient monitoring responsibilities the FCFC is delegating to the administrative agent. (~~See Circular A-133, Subpart D--*Federal Agencies and Pass-Through Entities*, §.400(d)~~)

- If the administrative agent, acting as the appointing authority for the FCFC, is given the authority to contract with service providers when administering federal or state programs awarded to the FCFC, the administrative agreement should require the administrative agent to enter into **written** provider contracts. The FCFC should agree as to what information is included in those contracts.

- What exactly are the responsibilities of the administrative agent? What responsibilities has the FCFC delegated to the administrative agent? (e.g., signing all grant agreements **on behalf of** the FCFC, administering all programs in accordance with the terms and conditions of the agreements including any federal regulations, preparing all periodic grant reports that may be required by grantor agencies, ensuring that funds received on behalf of the FCFC are deposited and invested in accordance with Ohio law, maintaining supporting documentation for all council financial activity in accordance with Ohio records retention laws and making that information available for audit.)

RC 121.37 does not require a coordinator.

- The administrative agent agreement should be signed by 1) the FCFC Chairman; 2) the FCFC Coordinator; and 3) the Administrative Agent.

In situations where an administrative agent is relying on a public or private entity to perform FCFC fiscal functions (e.g., processing transactions and preparing monthly and year-end financial statements), the administrative agent should enter into a **written** agreement with that entity. Recommended items to address in the agreement include:

- Responsibility for authorizing transactions.

- Responsibilities for maintaining detailed financial records and supporting documentation.

- Establishment of budgetary controls.

- Format and level of detail of financial information to be provided by the fiscal agent to the administrative agent.

- Frequency by which financial information will be provided.

- Responsibility for preparation of year-end financial statements.

- The fiscal agent agreement should be signed by the Administrative Agent and the Fiscal Agent.

The administrative and fiscal agent duties listed above are recommended to enhance the FCFC's internal accounting and administrative controls, and facilitate its effective and efficient operation. However, a FCFC's organizational structure and relationship with its administrative and fiscal agents may require internal accounting and administrative controls above and beyond those listed above. Ultimately, it is the FCFC's responsibility to design and place in operation internal controls that are adequate to enable it to maintain fiscal accountability and comply with applicable laws and regulations.

Budgets and Financial Reporting

In addition to appointing an administrative agent, effective October 1, 1997, FCFCs are now required to file an annual budget with their administrative agent, with copies filed with the County Auditor and the Board of County Commissioners, unless the Board is the FCFC's administrative agent. The amended legislation does not specify the level of detail of the budget or a filing deadline. However, in an effort to provide budgetary and financial reporting consistency throughout the State, the Auditor of State recommends the following:

1. Either the County Auditor or an Educational Service Center (ESC) should be appointed by the FCFC (or appointed by the FCFC's administrative agent if the County Auditor or the ESC is not the administrative agent) to serve as its fiscal agent. We believe this provides the most effective and efficient means of accounting and budgetary integration.

2. The fiscal agent should establish separate funds within its accounting system to maintain the FCFC activity (i.e., one fund for all unrestricted monies of the FCFC, and one fund for each source of restricted monies of the FCFC). While FCFC activity should be presented as an ~~Agency~~ Fund of the fiscal agent for year-end reporting purposes, it may be necessary for the fiscal agent to maintain the activity in another type of fund (i.e., General Fund or Special Revenue Fund) in order to maintain integrated budget and actual information throughout the year.

   It should be the responsibility of the FCFC or its administrative agent to notify the fiscal agent when restricted monies are received so that separate funds may be established. This responsibility should be delineated in the administrative agent agreement.

Agency funds are now termed "custodial funds."

3. Each FCFC fund maintained by the fiscal agent should be budgeted. Although Ohio Rev. Code Section 5705 does not apply to FCFCs, we advise that an estimate of financial resources and an appropriation measure be passed and filed with the fiscal agent on or near the first day of the calendar year. We recommend the appropriation measure be prepared with the following minimum level of detail:

   Personal Services
   Utilities
   Contractual Services
   Supplies & Materials
   Capital Outlay
   Miscellaneous

   In addition, FCFCs should implement the same encumbering procedures as that of its fiscal agent. The authority to initiate and approve purchase orders should be delineated in the fiscal agent agreement.

   In situations where the FCFC has appointed a not-for-profit agency to serve as the FCFC's fiscal agent, we advise the FCFC require the not-for-profit organization to maintain an accounting system which allows for budgetary integration. This requirement should be contained in the fiscal agent agreement.

4. On a periodic basis, the FCFC should receive financial reports from its fiscal agent which permit the performance of budget to actual comparisons. If necessary, the budget should be revised to reflect changes in conditions.

5. For year-end fiscal agent financial reporting purposes, all FCFC funds should be aggregated into one fund and presented as an ~~Agency~~ Custodial Fund on the financial statements. For FCFC financial reporting purposes, the unrestricted fund should be presented as the FCFC's general fund and each restricted fund should be presented as a special revenue fund. On the following page, we have provided an illustrative example of an administrative/fiscal agent appointment which we believe will be common and its appropriate accounting treatment.

~~If you have any questions concerning this bulletin, please contact Greg Kelly, Assistant Chief Deputy Auditor or Kelly Jordan, Department of Accounting and Auditing Support at 1-800-282-0370.~~

Discuss with your independent auditor.

Pages 7 and 8 describe typical FCFC operations and transactions. Pages 9 and 10 display how these operations and transactions might appear in a county auditor's financial records.

Illustrative Example

County Department of Mental Retardation and Developmental Disabilities appointed as Administrative Agent - County Auditor serves as Fiscal Agent

On September 15, 1997, the Any County Family & Children First Council (the Council) passed a resolution appointing the Any County Department of Mental Retardation and Developmental Disabilities (DMRDD) as the Council's administrative and fiscal agent effective October 1, 1997. A written administrative/fiscal agent agreement was entered into and signed by the Council, the DMRDD, and the County Auditor. (Although the Council appointed the DMRDD as the fiscal agent, the County Auditor statutorily serves as the fiscal agent for the DMRDD, therefore the fiscal agent responsibilities are passed on to the County Auditor. As set forth in the fiscal agent agreement, the County Auditor's responsibility consists solely of processing transactions at the direction of the DMRDD which is the Council's administrative agent.). In order to carry-out the administrative functions, the DMRDD assigned two of its employees to perform these administrative duties, in addition to performing their normal DMRDD functions. To account for the Council's fiscal activity the DMRDD requested the County Auditor establish three Family & Children First Council Funds; one for unrestricted monies, and two for different sources of restricted monies. (See Page 9)

Prior to October 1, 1997, The Helping Hand Agency, a not-for-profit agency located in the County, served as the Council's fiscal agent. On that date, The Helping Hand Agency remitted the balance of the Council's funds on deposit ($20,000) to the DMRDD. The DMRDD paid the funds into the Family & Children First Unrestricted Fund as evidenced by a pay-in issued by the County Auditor. As the appointed administrative agent, it was DMRDD's responsibility to ensure the funds were receipted into the appropriate fund with the appropriate receipt coding. (Other Receipts). This responsibility was delineated in the written administrative/fiscal agent agreement.

During the period October 1 through December 31st, the Council received the following sources of funding:

1. $250,000 Federal Program A - Restricted
2. $ 50,000 Local Match for Federal Grant A Provided By Local County Social Service Agencies which are Members of the Council - Restricted
3. $200,000 Federal Program B - Restricted
4. $ 17,000 Administration Grant from the State of Ohio - Unrestricted
5. $ 1,500 Proceeds from Sale of Used Computer - Unrestricted

As the appointed administrative agent, the DMRDD received and deposited these funds. The DMRDD was responsible for ensuring the funds were appropriately recorded into the Family & Children First Funds by the County Auditor.

Illustrative Example
(Continued)

Also, since the DMRDD agreed to carry-out the federal programs on behalf of the Council, it is the DMRDD's responsibility to ensure that an accounting system is maintained either by the County Auditor or the DMRDD which segregates (or otherwise adequately accounts for) the federal receipts and expenditures by program. If the DMRDD, as administrative agent of the Council, passes these funds through to another county agency or not-for-profit agency (i.e., subrecipient), so that they may administer the program, it is the DMRDD's responsibility as administrative agent of the Council, to monitor the subrecipient to reasonably ensure the program has been administered in accordance with all applicable federal and state requirements.

The DMRDD employees maintained a tracking system to record the number of hours worked performing Council administrative functions by federal program and the number of hours worked performing normal DMRDD functions. Each bi-weekly pay period, the DMRDD calculated the total salary of the two employees which was attributable to Council administrative functions and submitted the information to the County Auditor. At the inception of the fiscal agent agreement, it was agreed that all DMRDD salaries attributable to Council administration would be paid bi-weekly from the County DMRDD Special Revenue Fund and then reimbursed at year-end from Council monies. To track the portion of salaries attributable to Council administration, the County Auditor established a sub-account within the DMRDD salary account. During 1997, these salaries amounted to $2,000. When reimbursed at year-end, the County Auditor recorded a "reduction of an expenditure" in the DMRDD Special Revenue Fund and a $2,000 "Personal Services" expenditure in the appropriate Family & Children First Fund.

During the period October 1 through December 31st, the DMRDD employees purchased $3,000 of supplies and materials for Council administration purposes. The employees followed the same purchasing policies and procedures as required by all County Departments. The purchases were made from the Family & Children First Unrestricted Fund (See Page 9). All supporting documentation of the purchase(s) was presented to the Council for review at the next regularly scheduled Council meeting following the purchase(s).

As outlined in the written administrative agent agreement, the DMRDD was responsible for preparing monthly and year-end financial statements for the Council. To do so, the DMRDD uses the information maintained by the County Auditor within the three Family & Children First Council Funds. (See Page 10).

Accounting Treatment of FCFC Activity as Maintained by the County Auditor

Below are the FCFC funds which have been established by the County Auditor and maintained on a cash basis throughout 1997.

No budgetary information is shown here as the FCFC did not adopt a budget until 1998.

	Family and Children First Council Unrestricted	Family and Children First Council Restricted A	Family and Children First Council Restricted B
RECEIPTS:			
Intergovernmental Revenues	$17,000	$300,000	$200,000
Other Receipts	21,500		
TOTAL RECEIPTS	38,500	300,000	200,000
DISBURSEMENTS:			
Personal Services	2,000		
Utilities			
Contractual Services			
Supplies and Materials	3,000		
Capital Outlay			
TOTAL DISBURSEMENTS	5,000	0	0
EXCESS OF RECEIPTS OVER/(UNDER) DISBURSEMENTS BEFORE INTERFUND TRANSFERS AND ADVANCES	33,500	300,000	200,000
Transfers-In			
Advances-In			
Transfers-Out			
Advances-Out			
TOTAL INTERFUND TRANSFERS AND ADVANCES	0	0	0
TOTAL RECEIPTS OVER/UNDER DISBURSEMENTS	33,500	300,000	200,000
BEGINNING FUND BALANCE, JANUARY 1	$0	$0	$0
ENDING FUND BALANCE, DECEMBER 31	$33,500	$300,000	$200,000

(Note: These three funds were aggregated into one fund and reported as an Agency Fund of the County for year-end reporting purposes.)

Below is the County's DDD fund at year-end as maintained on a cash basis throughout the year by the County Auditor. Tickmark (A) indicates that line-item within the DDD fund which incurred activity relating to FCFC activity as discussed in the Example on the previous page.

	COUNTY SPECIAL REVENUE FUND DDD	
RECEIPTS:		
Intergovernmental Revenues	$600,000	
All Other Receipts	6,000	
TOTAL RECEIPTS	606,000	
DISBURSEMENTS:		
General Government:		
Legislative & Executive		
Judicial Public		
Safety Public		
Works Human		
Services	625,000	(A)
Miscellaneous	125,000	
Capital Outlay	5,000	
TOTAL DISBURSEMENTS	755,000	
RECEIPTS OVER/UNDER DISBURSEMENTS	(149,000)	
OTHER FINANCING SOURCES/USES):		
Transfers-In		
Advances-In		
Transfers-Out		
Advances-Out		
TOTAL OTHER FINANCING SOURCES/(USES)	0	
BEGINNING FUND BALANCE, JANUARY 1	$135,000	
ENDING FUND BALANCE, DECEMBER 31	$135,000	
RESERVE FOR ENCUMBRANCES, DECEMBER 31	$3,200	

(A) - $2,000 of salaries were attributable to Family & Children First Council administration during the year. The salaries were paid bi-weekly from this fund and line-item. At year-end, a "reduction of an expenditure" was posted to this line-item as $2,000 was received from the Council Unrestricted Fund.

Illustrative Example - Continued

FCFC Financial Statement as Prepared by the DDD

No budgetary information is presented as the FCFC did not adopt a budget until 1998.

ANY COUNTY FAMILY & CHILDREN FIRST COUNCIL
STATEMENT OF RECEIPTS, DISBURSEMENTS AND CHANGES IN CASH BALANCES
ALL GOVERNMENTAL FUNDS
FOR THE YEAR ENDED DECEMBER 31, 1997

	GENERAL FUND	SPECIAL REVENUE	(Memorandum Only) TOTAL
RECEIPTS:			
Intergovernmental Revenues	$17,000	$500,000	$517,000
Miscellaneous	21,500		21,500
TOTAL RECEIPTS	38,500	500,000	538,500
DISBURSEMENTS:			
Personal Services	2,000		2,000
Utilities			0
Contractual Services			0
Supplies and Materials	3,000		3,000
Capital Outlay			0
Miscellaneous			0
TOTAL DISBURSEMENTS	5,000	0	5,000
TOTAL RECEIPTS OVER/(UNDER) DISBURSEMENTS	33,500	500,000	533,500
BEGINNING FUND BALANCE, JANUARY 1	$0	$0	$0
ENDING FUND BALANCE, DECEMBER 31	$33,500	$500,000	$533,500
RESERVE FOR ENCUMBRANCES, DECEMBER 31	$0	$0	$0

AUDITOR OF STATE BULLETIN 98-012
NOVEMBER 23, 1998

TO: All School Districts
All County Auditors
All County Treasurers
All County Prosecutors
All IPAs

SUBJECT: Timing of the Adoption of the Annual Appropriation Measure by School Districts

The timing of the adoption of the annual appropriation measure by school districts continues to raise questions. This confusion is not surprising since the answer is not addressed in a single statute but rather through a combination of several statutes from different chapters of the Revised Code. Initial guidance is provided by Ohio Rev. Code §5705.38 (B) and §5705.36 (B).

These statutes indicate that the annual appropriation measure should be adopted by October 1 provided the amended certificates of estimated resources or the certifications that no amended certificates need be issued have been received from the county auditor. If the required certificates/certifications have not been received by October 1, adoption of the annual appropriation measure is delayed until the certificates/certifications have been received. Certificates/certifications are issued at several times under the provisions of Ohio Rev. Code §5705.36 (B). This Bulletin addresses two circumstances when the certificates/certifications would be issued after October 1.

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

If your 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. Portions of the relevant statutes follow.

> §5705.38 (B) - A school district shall pass its annual appropriation measure by October 1. If, by October 1, the district has not received the amended certificates of estimated resources required by division (B) of section 5705.36 of the Revised Code or certifications that no amended certificates need be issued, the adoption of the annual appropriation measure shall be delayed until the amended certificates or certifications are received...
>
> §5705.36 (B) - At the time of settlement of taxes against which notes have been issued under section 133.301 or division (D) of section 133.10 of the Revised Code and at the time a tax duplicate is delivered pursuant to section 319.28 or 319.29 of the Revised Code, the county auditor shall determine whether the total amount to be distributed to each school district from

such settlement or duplicate, when combined with the amounts from any subsequent settlement, will increase or decrease the amount available for appropriation during the current fiscal year from any fund. The county auditor shall certify this finding to the budget commission, which shall certify an amended certificate reflecting the finding or certify to the school district that no amended certificate needs to be issued.

§319.28 - On or before the first Monday in August, annually, the county auditor shall compile and make up a general tax list of real and public utility property in the county... On or before the first Monday in September in each year, the auditor shall correct such lists in accordance with the additions and deductions ordered by the tax commissioner and by the county board of revision, and shall certify and on the first day of October deliver one copy to the county treasurer.

§319.29 - On or before the first Monday in August, annually, the county auditor shall compile and make up lists of the names of the several persons, companies, firms, partnerships, associations and corporations in whose names personal property required to be entered on the general tax list and duplicate has been listed and assessed... On or before the third Monday in August in each year the auditor shall correct such lists in accordance with the additions and deductions ordered by the department of taxation, and shall certify and deliver one copy of such corrected lists to the county treasurer.

§323.17 - When any taxing authority in the county has certified to the board of elections a resolution that would serve to place upon the ballot at a general election or at any special election held prior to the general election but subsequent to the first Tuesday after the first Monday in August the question of a tax to be levied on the current tax list and duplicate for any purpose, the time for delivery of the tax duplicate to the county treasurer by the county auditor as provided in section 319.28 shall be extended to the first Monday in December.

If you have any questions concerning this Bulletin, please contact the Local Government Services Division of the State Auditor's Office at ~~(800) 345-2519~~.

614.466.4717

For CARES Act expenditures see the final page of this bulletin and/or specific guidance in the General Auditor of State FAQs at:
http://www.ohioauditor.gov/resources/COVID19_assistance.html

AUDITOR OF STATE BULLETIN 98-013
DECEMBER 16, 1998

TO: All City Auditors, Finance Directors and Treasurers
All Village Clerks and Treasurers
All Township Clerks
All County Auditors
All IPAs

SUBJECT: Accounting for FEMA grants

This office has been receiving numerous questions about the proper accounting treatment for grants received from the Federal Emergency Management Agency. The following are some general guidelines for handling FEMA money:

A. When no work has been completed at the time a check is received, your entity must:

1) Place all funds into a special FEMA fund,

2) Pay bills directly from the FEMA fund keeping in mind that the FEMA fund pays the federal share of each Damage Survey Report (DSR), that is 75% (federal) of the 100% total. The remaining 25% state/local match of any bills may be paid out of the general fund or other non-federal fund that permits expenditures for this purpose. When the state share is received, the state money may be receipted directly into the fund(s) from which the original payment(s) were made. As an alternative, if you wish to keep all expenditures related to the project in one fund, money may be advanced to the FEMA fund and repaid when the state share is received. The Auditor of State recommends that all project expenditures be maintained in one fund.

B. When a portion or all of the work has been completed and paid for at the time the FEMA money is received, your entity must:

1) Place all funds into a special FEMA fund,

2) For work completed and paid for, reimburse the fund(s) used to pay for the goods and/or services (before the FEMA money was received). One way to repay the fund is to reduce the expenditure in the fund making the original payment and to record the expenditure in the FEMA fund. A second method is to have advanced money to the FEMA fund in anticipation of the receipt of the grant. Repay the advance once the FEMA money is received. A third approach is to transfer the FEMA money from the FEMA fund to the fund that made the original payments.

A final alternative to repay from the FEMA fund is to create a bill from the fund that

made the original payment to the FEMA fund. The bill should identify the invoices(s) that were previously paid and show the portion(s) that are being charged to the FEMA fund. This method is most useful when the original expenditures were made in one year and receipt of the FEMA money didn't occur until the following year.

3) For Townships and Villages on the UAN system, the system will permit any of these procedures. Please call ~~1-800-833-8261~~ for any information on how to properly handle these types of transactions on the UAN system.

https://uanlink.ohioauditor.gov/

Other governments that have questions about accounting or interfund transactions may call ~~1-800-345-2519~~.

https://ohioauditor.gov/local.html

4) For any work not completed at the time FEMA money is received, please follow the instruction(s) shown under A.

5) Again, please keep in mind that the Federal FEMA money is to pay 75% federal match with the remaining 25% being paid from the state/local matching funds.

Please note that it is not necessary to create a FEMA fund for each Damage Survey Report. You need only create this fund for the entire grant. Appropriate fund numbers are as follows:

Villages	Alpha-Numeric	Numeric
Special Revenue Fund	B5 or B16	2901-2999
Capital Projects Fund	D2	4901-4999
Townships	**Alpha-Numeric**	**Numeric**
Special Revenue Fund	14	2901-2999
Capital Projects Fund	14	4901-4999

Note: AOS no longer prescribes alpha-numeric fund codes for villages, but does not object to governments that might still use them.

Cities and counties receiving FEMA grants should establish separate funds within their chart of accounts.

No additional Auditor of State approval is necessary to establish the FEMA funds; only a resolution of the legislative authority is needed.

The classification of the fund as special revenue or capital projects will depend on the nature of the expenditures that will be made. If the expenditures are mostly for salaries or repairs, special revenue would be appropriate. If the expenditures are for replacing fixed assets, then classify the fund as capital projects. If expenditures will be a mixture of the two, select the fund type that reflects the majority of the expenditures.

For all FEMA money, the correct receipt code to use is one which identifies the money as coming from the federal government.

UAN villages will use receipt code 411 - Federal Restricted. Non-UAN villages will use receipt code

D-141 - Federal Receipts. UAN Townships will use receipt code 511 - Federal Receipts. Non-UAN townships will use receipt code 14-C - Other Receipts.

Questions concerning this Bulletin should be addressed to the Local Government Services Division of the State Auditor's Office at (800) 345-2519.

CARES Act expenditures Guidance

AOS prefers local governments utilize a Reduction of an Expenditure or Reduction of Prior Year Expenditure line-item to move the eligible expenditure out of the fund that originally paid for it and into a new federal fund. However, some accounting systems do not include these options. Therefore, alternatively, entities may use the transfer line-items to reimburse eligible expenditures made in state and local funds with an allowable federal fund.

Local governments should work with their legal counsel to determine whether interfund reimbursements constitute reimbursements of allowable expenditures under the applicable federal program. If so, this bulletin and the AOS Ohio Compliance Supplement Implementation Guide ("Interfund Reimbursements") recognize an accounting principle that permits an entity to reimburse a fund by reducing the expenditure in the fund that made the original payment and recording the expenditure in the fund that contains the federal moneys once the federal moneys have been received. For example, OBM has suggested this method as a way to use CRF moneys received by a local government under HB 481 to reimburse funds that previously paid for eligible Coronavirus Relief Fund (CRF) expenses before the funding became available.

The Auditor of State's office recommends that every local government consult its own legal counsel for advice pertinent to the local government's particular situation to ensure that ORC 5705.14-.16 are not violated. Where disagreement over the application of a rule or statute arises, AOS will give all due consideration to a well-reasoned legal opinion provided by the local government's legal counsel.

Upon availability of the federal award funding, entities should use advances (if the program is operating on a reimbursement basis) or begin posting expenditures directly to the new federal fund.

Audit testing related to this Bulletin is in OCS step O-3.

AUDITOR OF STATE BULLETIN 99-002
FEBRUARY 5, 1999

TO: ALL SCHOOL DISTRICT TREASURERS
ALL EDUCATIONAL SERVICE CENTER TREASURERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: FOOD SERVICE INTEREST ALLOCATION

This bulletin clarifies the issue of food service interest allocation.

In 1997, the United States Department of Agriculture (USDA) distributed a letter (identification # MWCN-100 NT 1) reminding all Ohio school districts operating food service programs which receive federal funding of the following:

> Federal regulations state that, "School food authorities shall maintain a nonprofit school food service. Revenues received by the nonprofit school food service are to be used only for the operation or improvement of such food service....(7 CFR Part 210.14(a)). 7 CFR Part 210.2 defines revenue as, "all monies received by or accruing to the nonprofit school food service in accordance with the State agency's established accounting system, including but not limited to, children's payments, earnings on investments, other local revenues, state revenues, and Federal cash reimbursements." The inclusion in this definition of a "State agency established accounting system" does not allow for State policy which violates these federal regulations. State agencies may require specific accounting systems, but such systems may not direct food service funds, including the interest earned on such funds, away from the school food service account."

Many schools have contacted our office requesting clarification of this letter and the cited regulation. Specifically, there is a question as to whether or not the amount of interest to be allocated to the food service program is based solely upon the amount of federal funding or total monies within the fund. Also, there is question as to the method of allocation given the fact that federal funding received for food service programs in Ohio is normally received on a reimbursement basis.

We have researched the Code of Federal Regulations and have communicated directly with the Regional Director of Financial Management for the USDA to confirm the USDA's position given the regulations and the manner in which food service programs are funded in the State of Ohio. Any interest earned on the cash balance of a food service fund, whether those funds originated from federal, state, or local sources (including transfers or advances from other funds to temporarily assist the operation of the food service program), must be credited to that fund.

This guidance should be applied by March 1, 1999. Failure to apply this guidance after March 1, 1999, will result in the issuance of a Finding for Adjustment within the entity's audit report if the amount involved is greater than $100. If the amount involved is greater than $10,000 a Federal Questioned Cost will also be reported.

If you have any questions about this bulletin, please contact the Department of Accounting & Auditing Support at (800) 282-0370.

Auditor of State Bulletin 99-005
March 24, 1999

TO: All City Auditors, Finance Directors and Treasurers
All Village Clerks and Treasurers
All Township Clerks
All County Auditors
All Independent Public Accountants

SUBJECT: Accounting for FEMA Hazard Mitigation Grants

The Auditor of State's Office recently issued a Bulletin (Bulletin 98-013) that discussed recommended accounting procedures for FEMA Public Assistance grants administered by the Ohio EMA. The purpose of this Bulletin is to address the federal Hazard Mitigation Grant Program also administered by Ohio EMA.

The program was created to assist states and local governments in implementing long term mitigation measures after a disaster declaration. The objectives of the program are to prevent future losses of lives and property due to disasters, to provide funding for State and local mitigation plans and to enable mitigation measures to be implemented during a community's immediate recovery from a disaster.

The program can fund up to 75% of the eligible costs of an approved project. The required local match may be cash, in kind services or materials. Funding is generally provided in advance of program expenditures unless a recipient is designated high risk. High risk projects are funded on a reimbursement basis. Program money must be expended within a reasonable time from receipt, generally within thirty days. All costs associated with the program must be documented and the local government must be able to demonstrate compliance with the local match requirements. Specific guidelines for mitigation grants are available from the Ohio EMA, Mitigation Branch, by calling (614) 799-3530.

The grant program should be accounted for in a separate fund. All federal money should be receipted directly into this fund. The Auditor of State recommends that all program expenditures be accounted for in this fund. Money representing the local share may be transferred by resolution or ordinance into the program fund from the general fund. If the program is funded on a reimbursement basis, the amount representing the federal share may be advanced to the program fund from the general fund and then repaid once the federal money is received.

Appropriate fund numbers are as follows:

Note: AOS no longer prescribes alpha-numeric fund codes for villages, but does not object to governments that might still use them.

Villages	Alpha-Numeric	Numeric
Special Revenue Fund	B5 or B16	2901-2999
Capital Projects Fund	D2	4901-4999

Townships	Alpha-Numeric	Numeric
Special Revenue Fund	14	2901-2999
Capital Projects Fund	14	4901-4999

Cities and counties receiving FEMA grants should establish separate funds within their chart of accounts.

No additional Auditor of State approval is necessary to establish the FEMA funds; only a resolution or ordinance of the legislative authority is needed. The classification of the fund as special revenue or capital projects will depend on the nature of the expenditures that will be made.

For all FEMA money, the correct receipt code to use is one which identifies the money as coming from the federal government.

UAN villages will use receipt code 411 - Federal Restricted. Non-UAN villages will use receipt code D-141 - Federal Receipts. UAN Townships will use receipt code 511 - Federal Receipts. Non-UAN townships will use receipt code 14-C - Other Receipts.

Questions concerning this Bulletin should be addressed to the Local Government Services Division of the State Auditor's Office at (800) 345-2519.

AUDITOR OF STATE BULLETIN 99-006
APRIL 6, 1999

TO: Fiscal Officer of All Subdivisions
All Independent Public Accountants

SUBJECT: Requests for New Funds

The Auditor of State receives numerous requests to establish new funds under the provisions of Ohio Rev. Code §5705.12 which states:

> In addition to the funds provided for by sections 5705.09, 5705.121, 5705.13, and 5705.131 of the Revised Code, the taxing authority of a subdivision may establish, with the approval of and in the manner prescribed by the auditor of state, such other funds as are desirable, and may provide by ordinance or resolution that money derived from specified sources other than the general property tax shall be paid directly into such funds. The auditor of state shall consult with the tax commissioner before approving such funds.

The purpose of this Bulletin is to identify when a request under this code section is required and when a local government may create a new fund without the Auditor of State's approval.

When Requests are Unnecessary

Approval to establish a new fund is unnecessary when the creation of the desired fund is already authorized or required by statute. Whenever the creation of a fund is authorized or required by statute, either specifically by name, or in general, a separate letter requesting permission to establish the fund is not required.

Examples of specific statutory requirements are found in Ohio Rev. Code §3313.81, which requires that school districts establish food service funds, and in Ohio Rev. Code §5747.50, which requires that each county establish an undivided local government fund. Similar statutory provisions requiring the creation of a specific fund are scattered throughout the Revised Code.

General statutory requirements for the creation of funds are found in Ohio Rev. Code §5705.09. This code section states:

> Each subdivision shall establish the following funds:
>
> (A) General fund;
>
> (B) Sinking fund whenever the subdivision has outstanding bonds other than serial bonds;

(C) Bond retirement fund, for the retirement of serial bonds, notes, or certificates of indebtedness;

(D) A special fund for each special levy;

(E) A special bond fund for each bond issue;

(F) 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;

(G) A special fund for each public utility operated by a subdivision;

(H) A trust fund for any amount received by a subdivision in trust.

Based on this statute, it is unnecessary to continue to request permission from the Auditor of State to establish a new fund when the purpose of the fund will be to record and expend the proceeds of debt, to account for a new grant whose use is restricted to a particular purpose or to account for money received in trust.

When Requests are Necessary

It is necessary to continue to submit requests to the Auditor of State when the creation of the fund is not specifically authorized by statute or when the purpose of the fund is not identified in Ohio Rev. Code §5705.09 (A) - (H). Situations in which it would be appropriate to continue to submit requests include: 1) 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; 2) when the fund will be used to account for restricted gifts or bequests that will not be held in trust; and 3) when management wants to impose internal restrictions on the use of otherwise unrestricted resources

Management often asks to create a new fund to determine how much revenue a specific source generates or how money from a specific source is being spent. In circumstances where the desired financial information can be obtained by creating additional accounts within an existing fund, the creation of a separate fund is generally considered unnecessary. An exception to this policy is made for requests for the creation of proprietary funds.
Proprietary funds are intended to account for activities that are similar to businesses. The activity is at least partially financed by charges for services or goods. Rates are usually set by the legislative authority, and the desire is to maintain accounting records which can demonstrate the extent that charges cover the costs of providing the goods or services. This is accomplished by tracking all revenues and the related expenses of an activity within a single fund. Requests for the creation of a proprietary fund are usually granted.

Sending a request to establish a new fund is still appropriate when the fund will be used to

Do not classify funds holding restricted gifts as trust funds if the beneficiary is the government. If a trust agreement designates other parties as beneficiaries, then the fund ***should*** be classified as a trust fund. GASB 1300.108)

account for restricted gifts or bequests not held in trust. The creation of a trust fund is not necessary to account for restricted gifts or donations; this money may be accounted for in a special revenue fund or, if restricted to the acquisition of fixed assets, in a capital projects fund. ~~A trust fund is recommended only when there is a formal trust agreement with the donor.~~ Requests to account for restricted gifts and donations are routinely granted based on the need to demonstrate compliance with donor restrictions.

Letters frequently request permission for a new fund based on management's wish to place internal restrictions on the use of otherwise unrestricted resources. These types of requests are generally not approved. It is the policy of the Auditor of State to refuse requests when approval would result in giving readers of financial statements the false impression that the use of the resources in the fund is restricted. The General Assembly has begun authorizing the creation of funds using unrestricted resources in certain specific circumstances. For example, H.B. 426 allows subdivisions to create funds for the payment of compensated absences and for the acquisition of fixed assets. The Auditor of State does not feel it is appropriate to extend this ability into areas where the legislature has not acted.

When responding to requests to establish new funds, the Auditor of State applies two basic guidelines. Separate funds are justified 1) when they will provide management with additional relevant financial information which is not obtainable using the current fund structure; and 2) when necessary to demonstrate compliance with legal or contractual restrictions.

When the purpose of a fund created under the provisions of Ohio Rev. Code §5705.12 has been fulfilled, the unexpended balance may be transferred to the general fund or to the bond retirement fund, but only after the payment of all obligations incurred and payable from the fund. (See Ohio Rev. Code §5705.14) Management may not simply modify or alter the purpose of the fund; that, in effect, creates a new fund and would require a second approval from the Auditor of State.

To request the creation of a new fund, complete the attached form. Send the form and a copy of the resolution or ordinance of the legislative authority authorizing the fund to:

~~Auditor of State's Office~~
~~Local Government Services Division~~
~~88 East Broad Street~~
~~P.O. Box 1140~~
~~Columbus, Ohio 43216-1140~~

http://www.ohioauditor.gov/resources/AOSNotificatons.html

The request can be deemed approved if you do not receive a letter disapproving the request from the Auditor of State's local government services division within 30 days from the date of submission.

Questions concerning this bulletin should be addressed to the Local Government Services Division of the State Auditors Office at (~~800) 345-2519~~.

http://www.ohioauditor.gov/contact.html

AUDITOR OF STATE
REQUEST FOR FUND APPROVAL

Replaced with the form available at:
http://www.ohioauditor.gov/resources/AOSNotificatons.html

Entity: _____

Fiscal Officer: _____

Phone No.: _____

Request Date: _____

Fund Requested: _____

Purpose of Fund: _____

_____

_____

Sources of Revenues: _____

_____

Anticipated Expenditures: _____
(Types)

_____

NOTE: Please attach a copy of the resolution requesting approval to establish the fund.

AUDITOR OF STATE BULLETIN 99-008
May 13, 1999

TO: ALL TOWNSHIP CLERKS
ALL TOWNSHIP TRUSTEES
COUNTY AUDITORS

SUBJECT: TOWNSHIP OFFICERS' COMPENSATION

This bulletin clarifies recent Attorney General Opinion No. 99-015, which defined the term "budget" for the purposes of determining township trustee and clerk compensation.

1999 Op. Att'y Gen. No. 99-015 approved and followed 1992 Op. Att'y Gen. No. 92-003 on the issue of the definition of "budget" for the purposes of Ohio Rev. Code §§ 505.24 and 507.09. Opinion 99-015 stated in Syllabus one that:

> "For the purposes of calculating the authorized compensation of the township trustees and the township clerk pursuant to R.C. 505.24 and R.C. 507.09, the term "budget" refers to the total amount of resources available to the township pursuant to the official certificate of estimated resources or amendments to the certificate."

Therefore, when determining what the township's budget is, the amount of the official certificate of estimated resources or any amended certificates should be used. Please note that the date of the certificate, as dated by the County Auditor, is the date that should be used in determining when any increases due to increased budgets are effective. Once the budget amount is determined, the proper pay rate may be found in Ohio Rev. Code § 505.24 for the trustees and § 507.09 for the clerk.

Opinion 99-015 also determined "that special levies of a township are included in the budget." Opinion 99-015 stated in Syllabus two that:

> "Special levies of a township are included in the official certificate of estimated resources or amendments to the certificate, and thus in the township budget, for the purposes of calculating the authorized compensation of township trustees and the township clerk pursuant to R.C. 505.24 and R.C. 507.09."

Therefore, special levies of a township should be included in any official certificate of estimated resources, or any amended certificate, and in the budget for purposes of calculating compensation.

If you have any questions about this bulletin, please contact the Legal Division at (800) 282-0370.

AUDITOR OF STATE BULLETIN 99-015
SEPTEMBER 15, 1999

TO: ALL COUNTY AUDITORS
ALL COUNTY TREASURERS
ALL COUNTY SHERIFFS
ALL COUNTY CLERKS OF COURTS
ALL COUNTY RECORDERS
ALL COUNTY COMMISSIONERS
ALL COUNTY PROSECUTING ATTORNEYS
ALL COUNTY ENGINEERS
ALL COUNTY CORONERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: IN-TERM WAGE INCREASES FOR COUNTY OFFICIALS

The purpose of this bulletin is to inform county authorities of Ohio Attorney General Opinion 99-033. This opinion addressed the issue of in-term salary increases for county officials whose salaries are based upon population-driven compensation schedules contained within the Ohio Revised Code. The Attorney General concluded that when a county's population increases, as measured by the federal decennial census, an in-term county official may lawfully receive the higher salary provided for by the consequent shift in that official's compensation schedule.

The Attorney General was asked to opine on this issue because Ohio law contains certain prohibitions with respect to in-term changes in salary for county officers. Chiefly, Ohio Const. art. II, § 20, provides that the General Assembly "shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished." The operative word interpreted by the Attorney General was "change."

Relying heavily upon *Shultz v. Garrett*, 6 Ohio St. 3d 132, 451 N.E.2d 794 (1983), the Attorney General interpreted "change" to mean changes in salary caused by direct legislative action upon the compensation schedules contained in the Ohio Revised Code that act as the bases for the county officers' salaries. In other words, the Ohio Constitution prohibits the legislature from effecting a change in an in-term officer's salary by changing the underlying statute upon which the officer's salary is based. The Constitution does not perfunctorily prohibit a change in the salary of an in-term county officer. As long as the statute containing the compensation schedule was in effect prior to the commencement of an officer's term of office and the statute provides for a change in salary commensurate with a change in population, a county officer may receive an in-term increase in salary.

In the case of a county auditor, county treasurer, county sheriff, common pleas court clerk, county recorder, county commissioner, county prosecuting attorney, county engineer, or county coroner, their respective salaries are set forth in the compensation schedules contained in Ohio Revised Code Chapter 325. A particular officer's salary is determined by selecting the

appropriate compensation schedule which is based on the county's population. Generally, the greater the county's population, the greater the officers' salaries will be. Although there is no constitutional prohibition against an in-term salary increase for these officers when the county's population grows, there does exist a statutory bar in Ohio Revised Code § 325.22 that prohibits reducing their salaries in-term when the population of the county decreases.

The Attorney General also addressed the attendant issue of the proper index of population data to be used in determining the correct compensation schedules at which to set county officers' salaries. The Attorney General concluded that the only index of population recognized by the Ohio Revised Code is the federal decennial census. The Ohio Revised Code defines "population" to mean that enumeration of persons as shown by the most recent regular federal census. In examining federal censuses, the Attorney General found four types: a decennial census, a mid-decade census, a special census, and a compilation of current population data. The opinion ruled out current compilations of data because they are based on estimations and not on hard enumerations. Special censuses were also discounted because they are discretionary and therefore not "regular" in nature. Even though a mid-decade census was found to fall within the definition of a regular federal census, the Attorney General discovered that as a practical matter, no mid-decade census had ever been conducted. That left the federal decennial census as the appropriate population index to use within the compensation schedules.

Therefore, according to the Attorney General's opinion, those counties that experience an increase in population may lawfully adjust the salaries of those in-term officers whose salaries will be increased by a change in their compensation schedules. Where the federal decennial census indicates a decrease in county population, however, there should be no consequent decrease in an in-term officer's compensation.

If you have any questions about this bulletin, please contact the Legal Division at 1-800-282-0370 or (614) 752-8683.

AUDITOR OF STATE BULLETIN 99-019
NOVEMBER 23, 1999

TO: ALL SCHOOL DISTRICT TREASURERS
ALL SCHOOL DISTRICT SUPERINTENDENTS
ALL SCHOOL BOARD PRESIDENTS
ALL VOCATIONAL SCHOOL DISTRICT TREASURERS
ALL VOCATIONAL SCHOOL DISTRICT SUPERINTENDENTS
ALL VOCATIONAL SCHOOL BOARD PRESIDENTS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PETTY CASH ACCOUNTS
H.B. 220 (Eff. 11/2/99)

This bulletin informs school district treasurers, superintendents and boards of education of the recently enacted Sub. House Bill 220 and Ohio Rev. Code § 3313.291, which provide for the establishment of petty cash accounts by the board of education.

Prior to the enactment of Sub. H.B. 220 and Ohio Rev. Code § 3313.291, the Guidelines for Developing Policies for Student Activity Programs set forth a system of rules regarding petty cash accounts. The previous system permitted school board petty cash accounts only for small expenditures falling within established dollar amounts. In accordance with this system, all dollar amounts, locations and limitation of disbursements needed to be specifically addressed and all disbursements made by check required at least the signature of the treasurer.

Furthermore, the Guidelines for Developing Policies for Student Activity Programs advised school boards not to pay athletic official fees from the petty cash account. This advice stemmed from Ohio Rev. Code § 3313.51 which requires all school district moneys to be paid on a check signed by the treasurer. While Ohio Rev. Code § 3313.51 continues to impose restrictions on school district moneys, Sub. H.B. 220 and Ohio Rev. Code § 3313.291 expand school boards' authority regarding petty cash accounts.

Under the newly enacted Sub. H.B. 220 and Ohio Rev. Code § 3313.291, the board of education of a school district may adopt a resolution establishing a petty cash account from which a designated district official may draw moneys by check signed by that official or by debit card for purchases made within the district. The Revised Code requires that the resolution establishing the petty cash account:

- specify the maximum amount of money placed in the account;
- designate district officials who may draw moneys from the account or require the treasurer to designate such officials; AND
- specify the requirements and procedures for replenishing the account.

While Sub H.B. 220 and Ohio Rev. Code § 3313.291 appear to mirror the previous policy, the newly enacted law broadens school boards' authority and no longer prohibits school boards from paying athletic official fees from the petty cash account.

If you have any questions about this bulletin, please contact the Auditor of the State's Legal Division at (614) 752-8683 or (800) 282-0370.

AUDITOR OF STATE BULLETIN 2000-006
MARCH 9, 2000

TO: ALL SCHOOL DISTRICT TREASURERS
ALL SCHOOL DISTRICT SUPERINTENDENTS
ALL COMMUNITY SCHOOLS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: COMPENSATION OF SCHOOL DISTRICT OFFICIALS OR EMPLOYEES BY PRIVATE TRAVEL VENDORS

It has recently come to our attention that some public school district officials and employees who arranged out-of-state or overnight field trips for students may have received cash compensation, gifts or other things of value (hereafter collectively referred to as "compensation") from the private travel agents, tour operators and/or bus companies (hereafter "private travel vendors") with whom the field trips were booked. Public school district officials and employees should be aware that the receipt and acceptance of such compensation poses significant auditing issues and may possibly pose significant legal issues as well.

Ohio Rev. Code § 117.01(C) defines "public money" to be "any money received, collected by, or due a public official under color of office, . . ." School district board members, superintendents, administrators, principals and teachers are all "public officials" for the purposes of that definition. Ohio Rev. Code § 117.01(E). When arranging, booking or approving field trips through or with private travel vendors, school district officials and employees are acting under "color of office" as that term is defined in Ohio Rev. Code § 117.01(A). In the situations that have come to the attention of the Auditor of State's Office, the compensation paid to the school district official or employee by the private travel vendor would not have been paid <u>but</u> <u>for</u> the official or employee using the authority of his or her public office to choose the vendor, which is then paid for the field trip with public money. For these reasons, the Auditor of State's Office is taking the position that any compensation paid by a private travel vendor to a school district official or employee after the official or employee has participated in selecting the vendor to provide a field trip is "public money" and must be remitted to the school district.

The Auditor of State's Office will be scrutinizing such field trips in all school district audits for the fiscal year ending June 30, 2000. In advance of our audits, Boards of Education, superintendents and treasurers should identify all field trips that were arranged or taken since July 1, 1999 and assure themselves that any compensation received by any school district official or employee is or has been remitted to the district. Auditors will also be examining district policies and procedures regarding school district officials' or employees' receipt of compensation from any individuals or entities that do business with the district.

School districts also should be aware that an individual district official's or employee's receipt of compensation from private vendors doing business with the district may raise serious issues under one or more of Ohio's ethics laws, particularly Ohio Rev. Code §§ 102.03, 2921.42 and 2921.43. The Auditor of State's Office has requested more definite guidance from the Ohio Ethics Commission on

the issue of whether a school district official's or employee's receipt of compensation from a private travel vendor where the official or employee had a role in selecting the vendor for a field trip violates any of the criminal statutes under Ohio's ethics law and related statutes.

For the purposes of Ohio's ethics laws, the Ohio Ethics Commission has ruled that Board of Education members,[1] school district superintendents,[2] principals,[3] and teachers[4] are subject to Ohio's ethics laws.[5] In addition, community schools created pursuant to Chapter 3314 of the Revised Code are subject to the ethics laws, with some limited exceptions. Ohio Rev. Code § 3314.03(A)(11)(e). Generally, the ethics laws prohibit a public official or a public employee from (a) using the authority or influence of his or her public office to receive additional compensation for performing their ordinary duties, (b) securing any interest in a public contract, or (c) receiving anything of value that may serve to improperly influence the official in the conduct of his or her duties. *See* Ohio Rev. Code §§ 2921.43(A), 2921.42(A) and 102.03(D), (E) and (F). These statutes are ***criminal*** statutes and violators may be subject to jail time, fines or both.

When the Ethics Commission's guidance is obtained, our Office will disseminate the guidance in a future Bulletin. If you have any questions regarding any of the issues raised in this Bulletin, contact your regional Auditor of State office or contact our Legal Division in Columbus at (800) 282-0370.

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[1]Ohio Ethics Commission Advisory Opinion Nos. 89-005 and 82-003

[2]Ohio Ethics Commission Advisory Opinion No. 98-003

[3]Ohio Ethics Commission Advisory Opinion No. 91-006

[4]Ohio Ethics Commission Advisory Opinion Nos. 94-002 and 93-017

[5]It must be noted that the Ethics Commission has opined that teachers are considered "public officials" under Ohio Rev. Code § 102.03 only if they perform or have the authority to perform administrative or supervisory duties. However, teachers are considered "public officials" under Ohio Rev. Code §§ 2921.42 and 2921.43 regardless of whether they perform or have the authority to perform such duties. Ohio Ethics Commission Advisory Opinion No. 93-017.

AUDITOR OF STATE BULLETIN 2000-008
MAY 2, 2000

TO: ALL COUNTY AUDITORS
ALL CITY AUDITORS, FINANCE DIRECTORS & TREASURERS
ALL VILLAGE FISCAL OFFICERS
ALL SCHOOL DISTRICT TREASURERS
ALL EDUCATIONAL SERVICE CENTER TREASURERS
ALL TOWNSHIP CLERKS
ALL LIBRARY CLERKS/TREASURERS
ALL JOINT FIRE DISTRICT FISCAL OFFICERS
ALL FIRE AND AMBULANCE DISTRICT FISCAL OFFICERS
ALL JOINT RECREATION DISTRICT FISCAL OFFICERS
ALL PARK DISTRICTS
ALL JOINT ADAMH FISCAL OFFICERS
ALL UNION CEMETERY DISTRICT FISCAL OFFICERS
ALL PORT AUTHORITY FISCAL OFFICERS
ALL AIRPORT AUTHORITY FISCAL OFFICERS
ALL WATER AND SEWER DISTRICT FISCAL OFFICERS
ALL TOWNSHIP WASTE DISPOSAL DISTRICT FISCAL OFFICERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: ACCOUNTING FOR CASH BASIS LOCAL GOVERNMENTS' PARTICIPATION IN ON-BEHALF-OF GRANTS OR IMPROVEMENT PROJECTS[1]

Many local governments are the beneficiaries of programs commonly carried out or administered by other local governments or the State. Many of these grant programs or capital improvement projects (hereafter referred to as "program") are administered such that the benefitting governments do not receive cash or make disbursements as part of the program (for example, certain Issue II or CDBG programs). This bulletin describes the proper accounting treatment for these "on-behalf-of" programs.

Cash Accounting

When a local government enters into an on-behalf-of program agreement with another local government or the State (or the federal government, if applicable), whereby the local government or its residents are the beneficiaries under the agreement, the cash value benefit of the program received under the agreement should be recorded as memorandum receipts and disbursements in the year on-behalf-of disbursements are made.

This accounting treatment should only be applied when a local government or its residents are the recipients of benefits as evidenced by an agreement or an approved program application (This might include a consortium application where a group of local governments enter into an agreement as a consortium and the consortium is not a legally separate entity.[2]) A local government should not record any program transactions if the government has not entered into an agreement or has not been approved for program participation as a result of its request for participation. That is, transactions should not be recorded if the local government benefits solely as a consequence of a program carried out or

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[1] Though this Bulletin is intended primarily for cash basis local governments, local governments reporting under Generally Accepted Accounting Principles may find this guidance helpful when considering the application of Statement No. 24 of the Governmental Accounting Standards Board.

[2] For purposes of this Bulletin, the consortium fiscal agent may use any reasonable method to allocate receipt and disbursement activity of the consortium among consortium participants. However, be aware that a particular grant may provide specific allocations among consortium participants in which case those allocations should be used.

There have been some amendments to GASB 24. The current requirements are codified in Section N 50.

administered by another party.

For example, suppose the Ohio Department of Transportation administers a program which widens and repaves a five-mile section of state highway located within the Village of XYZ's boundaries. The Village has not applied for funding or entered into an agreement related to the project [3]. However, the improvements benefit the Village by providing increased access for tourists. In this case the Village would not record any receipts or disbursements related to the project.

Suppose, however, that the Village submits an application to XYZ County for participation in the County's CDBG-funded annual improvement project. The County approves the Village's application for a sidewalk replacement project, and the County advertises for bids, awards the contracts, and pays the vendors directly. In this case, even though the Village did not receive any payment or make any disbursements related to the project, the Village should record receipts and disbursements for the amount of the project payments made on-behalf-of the Village.

Note: When a local government makes on-behalf-of program disbursements for the benefit of another local government, the Auditor of State recommends that the disbursements be recorded as intergovernmental. This treatment prevents two governments from reporting operating or capital disbursements for the same grant. Also, GASB Statement No. 24 provides guidance regarding the fund type to be used when a government receives financial assistance to spend on-behalf-of a secondary recipient. In general, a government receiving such assistance should record the related receipts and disbursements in a governmental fund (though a proprietary or trust fund might also be appropriate). However, if the government has no administrative responsibility the financial activity should be recorded in an agency fund (This would be infrequent.)

Budgetary Accounting (*for entities subject to Ohio Revised Code Chapter 5705*)
The legislative authority should approve, by resolution, the grant or project application and must establish any fund(s) necessary to meet the grant or project objectives. Auditor of State permission for fund establishment is not necessary, although it may be necessary to obtain a fund number from the Auditor of State if one has not been previously assigned.

Once the grant is awarded or the application is approved, the fiscal officer must obtain an official certificate of estimated resources or an amended certificate of estimated resources for all or part of the grant or project, based on the expected cash disbursements to be made on the local government's behalf in the current fiscal year. Any on-behalf-of payments expected to be made in the next year should be reflected on the next year's certificate [4].

The fiscal officer shall record the appropriations in accordance with the terms and conditions of the grant or project agreement. In addition, prior to recording the appropriations, Ohio Rev. Code § 5705.40 requires the legislative authority to pass a resolution amending its appropriation measure.

If the grant or project will be expended over a period longer than the current fiscal year, only the amount expected to be obligated during the current fiscal year should be recorded as appropriated. The remainder of the project should be appropriated in the subsequent year(s) [5].

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[3] Some local governments do participate in certain ODOT projects as part of a formal agreement, with matching requirements.

[4] However, if the local government, with the exception of a school district, has budgeted on a project length basis pursuant to Ohio Rev. Code § 9.34(B), the fiscal officer must obtain an official certificate of estimated resources for the entire project length fiscal period. If the project length basis is used, the local government would appropriate the entire project amount.

[5] See footnote 4.

Other Matters

Local governments participating in on-behalf-of programs should review program documents and/or contact the awarding entity to determine the estimated and actual on-behalf-of disbursements for the fiscal year. These amounts should be used, respectively, for the budgetary and cash accounting treatment described above.

For federally funded programs, application of this accounting treatment will generally be an indication that the local government is a subrecipient of federal financial assistance, however, each agreement must be evaluated individually. When a local government has not applied for funding or entered into an agreement, as discussed in the ODOT example above, it will generally not be considered a subrecipient of federal financial assistance. When determining whether or not the local government is a subrecipient of federal financial assistance, the guidance provided by Office of Management and Budget (OMB) Circular A-133 should be considered [6].

Township officials are compensated based on annual budgets. The application of this accounting treatment and the related budgetary accounting may alter the budget amounts on which officials' compensation is based (see Auditor of State Bulletin 99-008.)

If you have any questions regarding this matter, please contact your regional Auditor of State's Office.

Now included in Uniform Guidance §200.502

Now in §200.93

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[6] OMB Circular ~~A-133 section .205 (a)~~ states in part, that the determination of when an award is expended should be based on when the activity related to the award occurs. This section further states, that generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and provisions of contracts or grant agreements. ~~A-133 Section .105~~ defines *Subrecipient* as a non-Federal entity that expends federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. ~~A-133 Section .105~~ defines *Federal Financial Assistance* to include assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

Under these sections, a local government should generally be considered a subrecipient when it receives cash or non-cash assistance under a federal program for which the local government has significant administrative or compliance responsibility.

Now in §200.40.

AUDITOR OF STATE BULLETIN 2000-014
September 11, 2000

TO: ALL SCHOOL DISTRICT TREASURERS
ALL EDUCATIONAL SERVICE CENTER FINANCE OFFICERS
ALL LIBRARY CLERKS/TREASURERS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: The E-Rate Program: Single Audits and Revision to Accounting Requirements

Background
On May 7, 1997, the Federal Communications Commission (FCC) adopted a universal service order to implement the Telecommunications Act of 1996. The Order permits eligible schools and libraries to apply for telecommunication and related services ("E-Rate") discounts.

Single Audit guidance is now in 2 CFR 200.501.

Single Audit Considerations
There has been uncertainty regarding whether E-rate discounts constitute Federal financial assistance, subject to the single audit and reporting requirements of ~~Office of Management and Budget Circular A-133~~. The State's cognizant agent recently concluded that the E-rate program is **not** subject to ~~OMB Circular A-133~~. School districts, educational service centers and libraries should not include the program on their schedules of Federal awards expenditures.

E-Rate Information
The FCC formed the Schools and Libraries Corporation (SLC) to administer the E-Rate program. Schools and libraries must apply to SLC to participate in the program. More information regarding the E-rate program (including the application process) is available at the following:

Schools and Libraries Corporation
P.O. Box 4217
Iowa City, Iowa 52244-4217
Phone: 888/203-8100
Website: www.sl.universalservice.org

Schools and libraries must use the savings discounts for telecommunications services, Internet access or other eligible purposes. They should retain documentation supporting that the discounts were spent for eligible purposes.

Accounting for E-Rate
This Bulletin supersedes the E-Rate guidance provided in Auditor of State Bulletin 99-007. Due to the relatively small amounts involved, entities no longer need a separate fund to account for these credits or reimbursements.

Entities need not record discounts paid on their behalf, through the Universal Service Fund, as a receipt and utility disbursement.

AUDITOR OF STATE BULLETIN 2000-015
SEPTEMBER 21, 2000

TO: ALL SCHOOL DISTRICT TREASURERS
ALL SCHOOL DISTRICT SUPERINTENDENTS
ALL COMMUNITY SCHOOLS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: COMPENSATION OF SCHOOL DISTRICT OFFICIALS OR EMPLOYEES BY PRIVATE TRAVEL VENDORS

On March 9, 2000, the Auditor of State's Office issued AOS Bulletin 2000-06, a copy of which is attached. Our Office issued that Bulletin in response to a situation we discovered during the audit of a school district. In that particular audit, we learned that a tour bus company had paid a school principal after the principal had selected the company to provide an out-of-state field trip for the school's students. When we contacted the tour bus company for an explanation of the payment to the principal, its representatives replied that such a payment was a standard practice.

Because of the serious implications of this practice, we decided to issue Bulletin 2000-06. In that Bulletin, we stated that "the Auditor of State's Office has requested more definite guidance from the Ohio Ethics Commission on the issue of whether a school district official's or employee's receipt of compensation from a private travel vendor where the official or employee had a role in selecting the vendor for a field trip violates any of the criminal statutes under Ohio's ethics law and related statutes." We also stated that when the Ethics Commission's guidance was obtained, we would disseminate it in a future Bulletin.

On August 16, 2000, the Ohio Ethics Commission issued its Advisory Opinion No. 2000-04 in response to our request. A copy of the Ethics Commission's opinion is attached for your review. The Auditor of State's Office urges all school district superintendents, treasurers and business officials to carefully review the Ethics Commission's opinion and to share the same with the district's legal counsel.

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

See the County Commissioner Association's most recent advisory bulletin for currently-applicable salaries.

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.

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[1]The 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.

AUDITOR OF STATE BULLETIN 2001-004
March 15, 2001

TO: ALL SCHOOL DISTRICT TREASURERS
ALL COUNTY AUDITORS
ALL CITY FINANCE DIRECTORS
ALL CITY AUDITORS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: GASB STATEMENT NO. 33

Introduction

Although the new reporting model established by the Governmental Accounting Standards Board (GASB) in Statement No. 34 is generating the most discussion, another new statement from the GASB will become effective before the transition to the new model is required. GASB Statement No. 33, "Accounting and Financial Reporting for Nonexchange Transactions" is effective for financial statements for periods beginning after June 15, 2000. For school districts, GASB Statement No. 33 will need to be implemented for the fiscal year ending June 30, 2001. For counties and cities, implementation will be required for the year ending December 31, 2001.

GASB has also issued Statement No. 36, "Recipient Reporting for Certain Shared Nonexchange Revenues" which modified the provisions of Statement No. 33 for certain specific nonexchange revenues. The provisions of Statement No. 36 are to be implemented simultaneously with those of Statement No. 33 and are incorporated into this Bulletin.

The purpose of GASB Statement No. 33 is to clarify the timing requirements for recognizing assets, liabilities, revenues and expenditures/expenses associated with nonexchange transactions. The Statement defines a nonexchange transaction as one in which the government receives value without directly giving equal value in return. (This is in contrast to exchange transactions in which each party receives or gives up essentially equal value.) Examples of nonexchange transactions include sales, income and property taxes, hotel-motel tax, gasoline tax, fines and penalties and grants. Inadequate guidance has resulted in these transactions being reported differently from one government to another. The GASB is hoping to generate more consistency and comparability in financial reporting by establishing more detailed recognition criteria.

GASB Statement No. 33 groups nonexchange transactions into the following four categories:

Derived tax revenues result from assessments imposed by governments on exchange transactions.

Imposed nonexchange revenues result from assessments by governments on non-governmental entities, including individuals, other than assessments on exchange transactions.

Government-mandated nonexchange transactions occur when a government at one level provides resources to a government at another level and requires that government to use them for a specific purpose or purposes established in the provider's enabling legislation.

Voluntary nonexchange transactions result from legislative or contractual agreements, other than exchanges, entered into willingly by two or more parties.

The following recognition guidelines apply when the **full accrual** basis of accounting is being used. Additional guidelines for the **modified accrual** basis of accounting are identified later in this Bulletin.

Derived Tax Revenues

A receivable is recognized when the underlying exchange on which the tax is imposed occurs or when resources are received, whichever occurs first. Revenue is recognized in the same period that the assets are recognized, provided that the underlying exchange transaction has occurred.

Examples: income tax, permissive sales tax, hotel-motel tax.

Income tax discussion: At June 30 or December 31, a receivable and revenue would be recognized for all tax remaining to be paid on income that was earned before year-end and that is considered collectible by the government. A receivable and revenue would also be recognized for prior year delinquencies still considered collectible.

Permissive sales tax discussion: At December 31, a receivable and revenue would be recorded for the estimated tax to be received from the State on transactions that had occurred during the year.

Imposed Nonexchange Revenues

An asset is recognized for imposed nonexchange transactions in the period when an enforceable legal claim to the assets arises or when the resources are received, whichever occurs first. Other than property taxes, revenues should be recognized when the asset is recognized unless there are time requirements specified in the enabling legislation. If time requirements are specified, revenue should be recognized in the period when the resources are required to be used or when use is first permitted. Governments should recognize revenues from property taxes, net of refunds and uncollectible amounts, in the period for which the taxes are levied.

Examples: property tax, fines and penalties.

Property tax discussion: An enforceable legal claim exists at June 30 for schools and at December 31 for cities and counties for the tax settlements identified below. These amounts would be reported as receivables at year-end.

> Schools - at June 30, 2001, the August, 2001 and February, 2002 real property tax settlements and the October, 2001 personal property tax settlement. (~~If the personal property tax settlement scheduled for June 30, 2001 is late and has not been received before year-end, it would also be reported as a receivable~~).
>
> Cities and counties - at December 31, 2001, the February, 2002 and August, 2002 real property tax settlements and the ~~June, 2002 and~~ October, 2002 personal property tax settlements.

The following revenues are considered to be levied, and would be reported as revenue, for the fiscal year ending June 30, 2001 for schools and for the calendar year ending December 31, 2001 for cities and counties.

> Schools - the ~~four~~ property tax settlements which are scheduled by statute to occur within the fiscal year ~~and~~ which by statute are available for appropriation (August, 2000 and February,

Three settlements now, because the June 30 settlement no longer occurs.

2001 real property and October, 2000 ~~and June, 2001~~ personal property), plus any advance against the August, 2001 real property tax settlement available from the county auditor on June 30, 2001.

Cities and counties - the ~~four~~ property tax settlements which are scheduled by statute to occur within the calendar year (February, 2001 and August, 2001 real property and ~~June, 2001 and~~ October, 2001 personal property).

Delinquent property taxes from prior years would also be included as a receivable and revenue to the extent they are considered collectible.

Credit revenue for full accrual. Credit deferred inflows for modified accrual.

Government-mandated and voluntary nonexchange transactions

For government-mandated and voluntary nonexchange transactions, receivables and revenues are recognized when all eligibility requirements are met. Resources received before the eligibility requirements are satisfied ~~are deferred~~. Eligibility requirements include one or more of the following:

Required characteristics of recipients. The recipient has the characteristics specified by the provider.

Time requirements. Time requirements specified by enabling legislation or the provider have been met. (The period when the resources are required to be used or when use is first permitted has begun, as specified by the provider.)

Sometimes a provider in a government-mandated or voluntary nonexchange transaction does not specify time requirements. When that is the case, the entire award should be recognized as a receivable and a revenue by the recipient in the period when all applicable eligibility requirements are met (applicable period). When the provider is a government, the applicable period for both the provider and the recipient is the provider's fiscal year and begins on the first day of that year (when, for example, the relevant appropriation becomes effective). The entire award should be recognized at that time.

Reimbursements. The provider offers resources on a reimbursement basis and the recipient has incurred allowable costs under the applicable program.

Contingencies. (Applies only to voluntary nonexchange transactions). The provider's offer of resources is contingent upon a specified action of the recipient and that action has occurred. Examples of contingencies include matching requirements that require the government to dedicate a portion of its own resources to a specified purpose or the environmental statement that is required by certain CDBG grants.

Examples: local government fund, foundation payments, gasoline tax, estate tax, motor vehicle license tax levied by the State, homestead and rollback, personal property tax exemption, grants.

Local government fund discussion: The local government and local government revenue assistance funds are grants from the State for which no time requirements are specified. The applicable period is therefore the State's fiscal year (July through June). At December 31, half of the amount awarded for the applicable period will remain to be received. A county or city would therefore record a receivable and revenue for the amount expected to be received from January through June. This same approach would apply for gas tax and motor vehicle license tax.

(excluding time requirements) should be reported as liabilities. Resources received before time requirements are met, but after all other eligibility requirements have been met, should be reported as a deferred inflow of resources by the recipient. (Revised per GASB 65)

Foundation payments discussion: Section 3317.01, Revised Code requires foundation payments to be distributed to school districts within the fiscal year. Whether or not these distribution guidelines are considered time requirements will not affect the recognition of revenue under Statement 33 since the applicable period for foundation payments would also be the fiscal year. At June 30, a school district would not record a receivable or revenue for foundation payments to be received in the following fiscal year.

Homestead and rollback: These payments represent statutory reductions in property tax bills which are being offset by the State. At June 30, 2001, there will be no receivable, assuming the payment for the February, 2001, settlement has been received. At December 31, 2001, the payment related to the February, 2002, settlement will be appropriated and unpaid. The estimated receipt should be reported as a receivable and revenue.

Purpose Restrictions

Often resources received by a government from nonexchange transactions have restrictions which specify the purpose for which the resources must be used. These restrictions may be imposed by the grantor or through the enabling legislation. (Enabling legislation is the ordinance or resolution that authorized the government to assess, levy, charge or otherwise mandate the payment of resources to the government, e.g. the resolution passed by the county commissioners that imposed a county sales tax). Purpose restrictions do not affect when a nonexchange transaction is recognized. At the time resources are provided or promised, it is assumed that purpose restrictions will be fulfilled.

If a recipient spends restricted resources for an inappropriate purpose, the recipient should record an expenditure/expense and a liability, if repayment to the provider is probable.

The same approach is used for grants that specify a date by which all resources must be used. It is assumed at the time the grant is made that the time limit will be satisfied. If the recipient fails to spend the resources within the prescribed time limit, the recipient should record an expenditure/expense and a liability, if repayment to the provider is probable

Modified Accrual Accounting

Under the guidelines of GASB Statement No. 33, assets, liabilities and expenses/expenditures arising from nonexchange transactions are recognized at the same time whether using the full accrual or the modified accrual basis of accounting. Revenues from nonexchange transactions under the modified accrual basis are generally recognized using the same criteria as full accrual with the additional requirement that the resources must also be available. Specific guidelines for the four categories are:

> *Derived tax revenues* - recognize revenues in the period when the underlying exchange transaction has occurred and the resources are available.
>
> *Imposed nonexchange transactions* - recognize revenues in the period when an enforceable legal claim has arisen and the resources are available.
>
> *Government-mandated and voluntary nonexchange transactions* - recognize revenues in the period when all applicable eligibility requirements have been met and the resources are available.

The additional criterion of availability under the modified accrual basis means that some or all of the amount recorded as revenue on a full accrual basis may be recorded as ~~deferred revenue~~ under the

Now termed "deferred inflow."

modified accrual basis, depending on when the resources are received. The receivable amount will not change.

Use of Modified v. Full Accrual Accounting

~~Prior to implementing the new reporting model, a government would apply the full accrual guidelines for recognizing receivables and revenue for nonexchange transactions to proprietary and nonexpendable trust funds. Once the new model has been implemented,~~ the full accrual guidelines ~~will~~ apply to governmental and business-type activities and extended to all fiduciary funds.

~~Prior to implementing the new reporting model, the modified accrual guidelines would apply to governmental, agency and expendable trust funds. Once the new model has been implemented,~~ the modified accrual guidelines will apply to the governmental funds only.

Measurable and Collectible

Recognition of nonexchange transactions in the financial statements is required regardless of the basis of accounting being used unless the transaction is not measurable or not probable of collection.

Transactions that are not recognized because they are not measurable must be disclosed in the notes to the financial statements.

Exchange Transactions

Although not the focus of the Statement, GASB Statement No. 33 also provides some guidance regarding exchange transactions. Exchange transactions are transactions in which each party receives or gives up essentially equal value. The GASB has also identified what are called exchange-like transactions in which the values exchanged may not be quite equal or in which the benefits to the transaction may not be exclusively for the parties to the transaction. Exchange and exchange-like transactions follow the same recognition guidelines. Under the full accrual basis of accounting, a receivable and revenue are recorded when the exchange takes place to the extent the amounts are collectible and measurable. Under the modified accrual basis, the resources must also be available in order to be recognized as revenue. Examples of exchange transactions include utility services, school excess cost charges and the sale of school supplies or lunches. Examples of exchange-like transactions include licenses and permits and certain tap fees.

Excess cost charges discussion - Excess cost charges arise when one school district provides services to another district under contract and those services are not fully paid from additional grant revenue. Charges for services that remain unpaid at year-end and that are both measurable and collectible will be reported as a receivable and revenue using the full accrual basis of accounting. On the modified accrual basis, the receivable amount will not change. Revenue would be recognized for the amount paid during the available period with ~~deferred revenue~~ reported for the remainder. The school district that received the services would report a liability for the full amount of the charge under either basis of accounting.

Now termed "deferred inflow."

~~**Reminder**~~

~~Please remember that the implementation of these new Statements may require a restatement of year end balances at the beginning of the year for which they are being implemented. For example, if implementation is being done for the 2001 school fiscal year (July 1, 2000 through June 30, 2001), a restatement may be necessary at June 30, 2000.~~

Date: April 12, 2001
Bulletin 2001-005

AUDITOR OF STATE BULLETIN

TO: LIBRARY CLERKS/TREASURERS
EDUCATIONAL SERVICE CENTER FINANCE OFFICERS
EDUCATIONAL SERVICE CENTER BOARDS OF EDUCATION
COMMUNITY SCHOOLS
CITY AUDITORS, FINANCE DIRECTORS & TREASURERS
CITY MAYORS/MANAGERS
CITY LEGISLATIVE AUTHORITIES
CITY LAW DIRECTORS, SOLICITORS AND ATTORNEYS
VILLAGE CLERK/TREASURER/FISCAL OFFICERS
VILLAGE LAW DIRECTORS/SOLICITORS/ATTORNEYS
VILLAGE ADMINISTRATORS
SCHOOL DISTRICT TREASURERS
BOARDS OF EDUCATION
COUNCIL OF SCHOOLS/EDUCATION RELATED
JOINT VOCATIONAL SCHOOL DISTRICT TREASURERS
JOINT VOCATIONAL SCHOOL DISTRICT BOARDS OF EDUCATION
TOWNSHIP CLERKS
TOWNSHIP TRUSTEES
TOWNSHIP ADMINISTRATORS
COUNTY AUDITORS
COUNTY COMMISSIONERS
COUNTY PROSECUTING ATTORNEYS
COUNTY ADMINISTRATORS
COUNTY FAMILY & CHILDREN FIRST COUNCILS
COUNTY ADAMH SERVICES BOARDS
COUNTY BOARDS OF HEALTH
COUNTY BOARDS OF MR/DD
COUNTY AND INDEPENDENT FAIRS
PUBLIC UNIVERSITY FISCAL OFFICERS
PUBLIC MEDICAL COLLEGE FISCAL OFFICERS/FREE STANDING
COMMUNITY COLLEGE TREASURERS
TECHNICAL COLLEGE DISTRICT TREASURERS
PARK DISTRICTS
TRANSIT AUTHORITY BOARDS
PORT AUTHORITIES
FIRE AND AMBULANCE DISTRICTS
WATERSHED CONSERVANCY DISTRICTS
SPECIAL DISTRICTS
ECONOMIC DEVELOPMENT AND PLANNING AGENCIES
COMMUNITY IMPROVEMENT CORPORATIONS
COMMUNITY DEVELOPMENT CORPORATIONS
METROPOLITAN HOUSING AUTHORITIES
AIRPORT AUTHORITIES
SOIL AND WATER CONSERVATION DISTRICTS
GOVERNMENTAL INSURANCE POOLS
WATER AND SEWER DISTRICTS
CEMETERIES
COUNCILS OF GOVERNMENT
ELECTRIC/GAS UTILITIES
HOSPITALS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: REVISED CODE REQUIREMENTS FOR SELF INSURED POLITICAL SUBDIVISIONS, INCLUDING GOVERNMENTAL INSURANCE POOLS

Bulletin 2011-08 amends this Bulletin. You should read 2011-08 in conjunction

Executive Summary

Sections 9.833, 2744.08 and 2744.081 of the Ohio Revised Code describe legal and accounting requirements for self-insur subdivisions and governmental pools.[1] These Sections require certain subdivisions to establish separate self-insuran funds. The Sections do not prescribe funding methods or funding amounts. Management is responsible for determini that adequate financial resources are available to timely pay self-insured claims.

These sections may require an actuary to opine on the fair presentation of certain self-insured liabilities annually, **even for some cash basis subdivisions**. Actuaries are responsible only to determine that the liability was computed in accordance with accepted loss reserving standards. Management is responsible for computing the liability (though management may engage an actuary to assist with the calculation). Management should use the actuarially-measured information to assist in determining appropriate rates to charge other funds (or that pools should charge to participating subdivisions). Rates should not only be sufficient to cover current claims, but should also reasonably provide additional amounts to pay unforseen costs, such as incurred but not reported (IBNR) claims. Management should monitor cash balances restricted for self insurance, claims paid and charges to other funds (or subdivisions). A significant excess or deficiency of cash over or under the actuarial liability, or an actuarial liability that steadily increases over time, suggests that rates require adjustment.

Allowing a significant unfunded liability to accumulate could have adverse consequences on cash flows in a future period.

This Bulletin (1) clarifies these Revised Code requirements; (2) amends The Ohio Compliance Supplement's (OCS) suggested audit procedures related to these requirements (OCS sections ~~6-1 and 6-2~~); (3) includes guidance related to funding self-insured plans; (4) describes actuarial qualifications and applicable standards for actuarial reporting and (5) includes an example risk management disclosure cash-basis subdivisions should include with their audited financial statements.

Now OCS 1-19 and 1-20.

We are aware that some contents of this Bulletin are highly technical. If the Sections apply to your subdivision, you may wish to discuss these matters with a qualified actuary, your independent accountant or your regional Auditor of State's Office.

Summary of the legal requirements

Note: Readers should refer to the attached summary of Ohio Revised Code Requirements Relating to Self Insurance (Appendix 2) for a listing of requirements applicable to self-insured subdivisions and governmental self-insurance pools.

Ohio Revised Code Sections 9.833, 2744.08, 2744.081 (the Sections), and 5705.13(A) impose important requirements for self-insured political subdivisions,[2] to help assure management has established appropriate liability amounts. The Sections have some similar requirements, but apply to different types of liabilities and to different subdivisions:

9.833

Applies to self-insured officer or employee health benefit programs, whether the program is solely that of an individual subdivision (referred to herein as "single subdivision"), or is a governmental pool. Certain provisions of 9.833 do not apply to single subdivision programs in municipal corporations, ~~townships or counties~~.

2744.08

Applies to single-subdivision programs self insuring against potential liability in damages in civil actions for injury, death, or loss to persons or property allegedly caused by an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function.

2744.081

Applies only to pools providing coverage for the payment of judgments, settlement of claims, expense, loss, and damage that arises, or is claimed to have arisen, from an act or omission of the political subdivision or any of its employees in connection with a governmental or proprietary function and to indemnify or hold harmless the subdivision's employees against such loss or damage.

5705.13(A)

Allows subdivisions with taxing authority to reserve fund equity for self insurance.

Per 2011-08, 9.833(C)(1), (2) & (4) were amended, and now apply to counties and twps.

Important considerations

1. In circumstances described in Appendix 2, subdivisions must compute self-insured liabilities. An actuary must opine on the fair presentation of the liability. The actuary often relies on information the subdivision or a third-party administrator provides. This information might include, for example, the number, gender and ages of employees or other data. This data must be reasonably accurate for the actuary to form an opinion.

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[1] A governmental pool is a pool with membership limited to political subdivisions.

[2] The Sections define a political 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.

Since an actuary is not responsible for auditing data submitted to him or her, the subdivision's auditors should subject data submitted to the actuary to testing. Auditors should refer to Auditing Standards Section ~~AU 336 (especially 336.12(b))~~ regarding this requirement.

Superseded by AU-C 500.08 and 500.A38 -- .48 (auditee-hired actuary); or AU-C 620 (auditor-hired actuary, if necesasary) to test auditee's actuarial work.)

2. Actuarial standards and Government Accounting Standards Board Statement 10 (GASB 10), *Accounting and Financial Reporting for Risk Financing and Related Insurance Issues*, require that liabilities be accrued not only for insured events reported by claimants, but also for incurred but not reported (IBNR) claims. For instance, an insured employee illness occurring prior to the balance sheet date might not be submitted to a plan for payment until well after the balance sheet date. Nevertheless, the estimated insured cost of that claim is a liability as of the balance sheet date. Subdivisions and pools should use estimation / actuarial methods to estimate IBNR.

Cash-basis subdivisions are not subject to GASB 10. However, we believe they should disclose certain information related to risk management. When the Sections require an actuarial measurement for a cash-basis subdivision, the subdivision should disclose that information in the notes to its audited financial statements. Appendix 1 includes an example disclosure.

risk

tory requirements of Appendix 2 apply only to the extent a subdivision or pool has *not* transferred risk to another example, if a subdivision purchases a policy from a private carrier covering all reasonably anticipated claims amounts (usually excepting an immaterial deductible), the subdivision has transferred risk to the carrier. The subdivision would not be subject to the Section(s), even if it had a separate fund to collect amounts to be paid as premiums to the carrier.

For subdivisions or pools purchasing only large stop-loss caps, the subdivision or pool **is** self insured **up to** the cap limit, and would be subject to the Sections.

As another example, assume a subdivision other than a pool contractually agrees to pay a "premium" or required contribution to an insurer or claims servicing pool, with the ultimate charge based on the subdivision's subsequent claims/loss experience. If the subdivision's losses exceed the initial charge, it will be assessed an additional amount to fully reimburse the "insurer." Conversely, if premiums exceed losses, the subdivision will receive a refund or reduction in future premium rates. In this situation, the subdivision is self insured, and is subject to these Sections. The annual premium is more in the nature of a deposit, and the "insurer" is functioning more as a claims servicer, rather than as an insurer.

As a final example, assume a pool's plan does not permit a supplemental assessment or refund to a subdivision based on its individual experience. However, the pool may make supplemental assessments if the experience of the overall pool is unfavorable. In this instance, except for deductible amounts, risk has been transferred to the pool. A governmental pool assuming the risk of losses would be subject to the Sections rather than the participating subdivisions.

We are aware that some pooling agreements have attributes of both the preceding paragraphs. Such arrangements must be individually analyzed in determining the applicability of the Sections and of this Bulletin.

Funding

The amount charged to other funds (or that a pool charges to participating subdivisions) to pay claims is a matter of management judgment. The Sections do not prescribe a funding method. The minimum requirement would be only cash needed to pay claims when due, and is referred to as "pay-as-you-go funding." For example, when a subdivision pays only the amounts a third-party claims administrator requires to pay approved claims, a subdivision is using pay-as-you-go funding.

While this method is the least costly in the short term, it is risky, since catastrophic illnesses or other significant self-insured liabilities could cause a material increase in required payments. A more fiscally conservative approach is to fund an additional amount above that needed for approved claims, to build a "cushion" for large, unforeseen claims.

The most prudent approach is to fund liabilities when they occur, rather than when approved for payment. This method of funding is called full funding. Full funding requires charging other funds (or other pool participants, or reserving equity under 5705.13(A)(2), Rev. Code) an amount such that assets equal the actuarial liability.

Discounting the Liability

GASB 10 (paragraph 59) and actuarial standards permit, but do not require, discounting the liabilities. Discounting (i.e., reducing the liability amount to a present value based on an appropriate interest/discount rate) has little effect on liability amounts due in the near term. However, for large amounts due several years hence, discounting can significantly reduce the recorded liability. Discounting may be preferable when (1) entities have significant long-term payments due and (2) they wish to fully fund liabilities. Not using a discounting method in circumstances (1) and (2) could cause an over funding of liabilities, since self-insurance investment earnings should approximately offset the subsequent writeup of discounted liabilities.[3]

When a subdivision discounts its liability, Actuarial Standard of Practice No. 9 suggests it may be appropriate to provide a cushion for uncertainty. We believe this requires discounting reserves above the expected value, or above the midpoint

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[3] The Revised Code may require such interest be recorded to the general fund. See statutes related to investment earnings

of the range or above the 50% confidence level. The actuary we consulted with in drafting this Bulletin routinely encourages self-insured clients to set the reserve at the 90% confidence level, for conservatism. For example, an actuarial/statistical analysis may determine that discounted, estimated losses could range from $100,000 to $200,000, with a fifty percent likelihood that losses will be less than $160,000, and a 90% likelihood that losses will be less than $185,000. Applying conservatism to Actuarial Standard No. 9 would suggest setting the actuarial liability at $185,000.

GASB Cod C 50.111

Note that if no amount in the range is deemed a better estimate than another, paragraph 54 of Governmental Accounting Standard No. 10. suggests accruing the minimum from the range (i.e., $100,000). However, we believe paragraph 54 and the conservatism principle would not preclude accruing a $185,000 liability in GAAP balance sheets.

External Financial Reporting

The Sections require the actuary's report be available upon request. The Sections also require subdivisions to prepare an annual statement of the actuarial liability and claims disbursements. There is no prescribed format for the disbursement report. While the Sections do not require a separate audit of either the actuary's report or the disbursement report, both reports will be important to audits the Auditor of State (or independent accountants) perform under Chapter 117, Rev. Code.

Since an actuarial measurement of the liability is usually consistent with GASB 10, GAAP subdivisions can usually accrue the actuarial liability in their general purpose financial statements, which are, of course, subject to audit by the Auditor of State.

GAAP entities reporting equity reserves in the general fund per 5705.13(A) should reduce the reserve on the GAAP balance sheet for amounts accrued as liabilities under GASB 10.

Subdivisions following the Auditor of State's cash basis of accounting should disclose the actuarially-measured liability in a note to the audited financial statements. The disclosure should also include the year-end self insurance fund cash balance. The note should disclose any equity reserved for self insurance under 5705.13(A), unless that amount is disclosed on the face of the financial statements. An example disclosure is attached to this Bulletin. We will similarly modify the examples our staff use to assist subdivisions in preparing cash-basis financial statement notes. This disclosure requirement applies to audits covering fiscal years ending December 31, 2000 and subsequent years. We suggest that the disclosure include comparative information to help inform readers of significant trends in the liabilities.

Now in OCS 1-19 and 1-20.

Audit Considerations

Sections 6-1 and 6-2 of the May, 2000 Ohio Compliance Supplement related to these Sections are revised as follows:

- The asterisked statement in Sections ~~6-1 and 6-2~~ is revised as follows:
  "Reserved" means liabilities measured in accordance with accepted actuarial principles.
- Step 2 in Sections 6-1 and 6-2 is amended to note that the procedures described (i.e., testing information the client provides to the actuary) may be necessary to comply with Statement on Auditing Standard No. 73, ~~*Using the Work of a Specialist.* 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.
- Step 3 is added to Sections 6-1 and 6-2:
  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.
- 4 is added to Sections 6-1 and 6-2:
  Consider whether any qualification in the actuary's report affects the financial statement opinion. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.)

Now in AU C 500.08 and 500.A38 -- A.48 (auditee-hired actuary)

Actuarial Requirements

If subdivisions issue requests for proposals (RFP) for actuarial services, they should consider the following in drafting their RFP, and when evaluating proposals.

Qualifications

Sections 9.833 and 2744.081 require the actuary to be a member of the American Academy of Actuaries. However, not all members of the Academy are qualified to render the opinions required by these Sections.

As a *general* rule, a Fellow or Associate of the Casualty Actuarial Society (FCAS or ACAS) would be qualified to report on the casualty liabilities described in 2744.081. An FCAS or ACAS may also be qualified to report on health claims liabilities per 9.833.

Also, as a *general* rule, a Fellow or Associate of the Society of Actuaries (FSA or ASA) would be qualified to report on health claims liabilities per 9.833.

We recommend that RFPs require actuaries to include their professional certifications and examples of similar engagements performed and/or references from other clients.

Statement on Auditing Standards No. ~~73 (AU 336.08~~) states an auditor should consider the actuary's professional

Now in AU-C 500.A39 (auditee-hired actuary)

certifications, reputation and experience with the work under consideration. The proposal may be a source of this information.

Applicable Actuarial Standards

In preparing and opining on the reserve (i.e., liability), actuaries should consider the following standards of practice:

- Actuarial Standard of Practice No. 5: *Incurred Health Claim Liabilities*
- Actuarial Standard of Practice No. 9: *Documentation and Disclosure in Property and Casualty Insurance Ratemaking, Loss Reserving and Valuations*
- Actuarial Standard of Practice No. 21: *The Actuary's Responsibility to the Auditor*
- Actuarial Standard of Practice No. 28: *Compliance with Statutory Statement of Actuarial Opinion Requirements for Hospital, Medical and Dental Service or Indemnity Corporations, and for Health Maintenance Organizations*
- Actuarial Standard of Practice No. 36: *Statements of Actuarial Opinion Regarding Property/Casualty Loss and Loss Adjustment Expense Reserves*

Actuarial Opinions

We believe actuarial opinions similar in format with that described in the *Instructions to the National Association of Insurance Commissioners Blank* would comply with the Sections. Such a report would include paragraphs (1) identifying the actuary, (2) the scope of the matter subject to the opinion, (3) an opinion and, (4) if needed, one or more relevant comment paragraphs. One or more additional paragraphs may be needed to address any opinion qualifications.

Example identification paragraph:

I, (name and title of actuary) am associated with the firm of (name of firm). I am a member of the American Academy of Actuaries and meet its qualification standards. I am a Fellow/Associate of the Casualty Actuarial Society. I was appointed by the (name of subdivision or pool)'s governing board on (insert date) to render this opinion.

Example Scope Paragraphs:

I have examined the actuarial assumptions and methods used in determining the reserves listed below, as shown in the Report of Actuarially-Determined Liabilities of the (name of subdivision or pool) as required by Section 9.833 (or 2744.081) of the Ohio Revised Code, as of (last day of fiscal year).

(List liabilities covered by the opinion, which typically would include:)

Unpaid losses

Unpaid loss adjustment expenses

The liabilities listed in the Report of Actuarially-Determined Liabilities include (do not include) anticipated subrogation[4] and (or) discounting.

In forming my opinion on the loss and loss adjustment expense reserves, I relied upon data prepared by the responsible officers or employees of the (name of subdivision or pool). I evaluated that data for reasonableness and consistency. In other respects, my examination included such review of the actuarial assumptions and methods used and such tests of the calculations as I considered necessary.

Example Opinion Paragraph:

In my opinion, the amounts carried by the (name of subdivision or pool) for unpaid losses and unpaid loss adjustment expenses meet the requirement of Section 9.833 (2744.081) of the Ohio Revised Code, are computed in accordance with accepted loss reserving standards and principles, and make a reasonable provision for all unpaid loss and loss expense obligations of the (name of subdivision or pool) under the terms of its policies and agreements.

Relevant Comments Paragraph(s)

In the relevant comments paragraphs, the actuary should comment on significant types of losses and the major risk factors (including adverse court decisions, legislation) which the actuary believes materially affect the variability of the reserves.

If there has been any material change in the actuarial assumptions and/or methods from those used in prior years, the actuary should describe the change by inserting a phrase such as:

A material change in the actuarial assumptions (and/or methods) was made during the past year, but such change accords with accepted loss reserving standards. *(A brief description of the change would follow.)*

You can refer questions regarding this Bulletin to the Accounting & Auditing Support Division of the Auditor of State at 800/282-0370.

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[4] Note that paragraph 9 of GASB Statement 30 requires reducing liabilities for recoveries from unsettled claims, such as salvage or subrogation. Therefore, when the actuary's work will be used to support a liability computed to conform with GASB 10, the liability should be reduced for anticipated subrogation

Appendix 1: Example Note for Cash-Basis Subdivisions

X. RISK MANAGEMENT

(Note: Use only the paragraphs that apply. Some of the descriptions below are mutually exclusive, so you must make appropriate modification.)

Commercial Insurance

The (name of subdivision) has obtained commercial insurance for the following risks:

- Comprehensive property and general liability
- Vehicles
- Errors and omissions

The (name of subdivision) is uninsured for the following risks:

- Comprehensive property and general liability
- Vehicles
- Errors and omissions

(Insert the following sentence if uninsured losses were material .) During 20EE, the (name of subdivision) paid $____ for losses that exceeded insurance coverage.

(Also disclose any significant changes in coverage from the prior year.)

Risk Pool Membership

The (name of subdivision) is a member of the XYZ Joint Self Insurance Pool (the Pool). The Pool assumes the risk of loss up to the limits of the (name of subdivision's) policy. The Pool may make supplemental assessments if the experience of the overall pool is unfavorable .[Modify the preceding sentence as needed.] The Pool covers the following risks:

- General liability and casualty
- Public official's liability
- Vehicle

The Pool reported the following summary of assets and actuarially-measured liabilities available to pay those liabilities as of December 31:

	2001	2000
Cash and investments	$	$
Actuarial liabilities	$	$

Self Insurance

The (name of subdivision) is also self insured for [describe type of coverage, such as employee health or liability insurance]. The Self Insurance Fund pays covered claims to service providers, and recovers these costs from charges to other funds based on an actuarially determined cost per employee. [OR] Interfund rates are charged based on claims approved by the claims administrator.[OR] describe other method of cost recovery. A comparison of Self Insurance Fund cash and investments to the actuarially-measured liability as of December 31 follows:

	2001	2000
Cash and investments	$	$
Actuarial liabilities	$	$

Note Comments

1. This illustration applies to entities using the Auditor of State's (i.e., cash) basis of accounting. GAAP-basis entities should follow the disclosure requirements described in GASB Statements 10 and 30.

2. As stated above, this illustration will always require considerable modification. For example, the illustration describes an entity that simultaneously has obtained commercial liability insurance, has no liability insurance and has pooled its liability risk. Usually only one of these three conditions will apply.

3. The example also describes an entity that has joined a pool to insure liability risks and is self insured for health insurance. The opposite may apply, or some other combination may apply.

4. As illustrated in the second *commercial insurance* paragraph, we request that entities disclose if they have elected to forego liability insurance. We would consider a subdivision to be uninsured when it has none of the following:
   a. Commercial insurance coverage
   b. A self insurance fund
   c. Fund equity reserve for self insurance under 5705.13(A)(2)
   d. Participates in a self insurance pool
   e. Annual appropriations for claims costs reasonably sufficient to cover those costs.

5. There is no requirement to disclose a lack of health insurance coverage. Health insurance coverage is an employee benefit; failing to insure health coverage is a risk for employees, not a direct risk to a subdivision. Conversely, subdivisions should disclose if they have contractually agreed to cover employee health costs. Such costs are often significant and therefore of interest to financial statement readers.

6. The two-year comparison of cash and investments vs. actuarial-liabilities is a useful measurement of the adequacy of a subdivision's funding methods / formulas. A significant excess of liabilities over assets or a trend showing a deteriorating excess of assets should warn management and financial statement users that current funding methods / formulas may require modification. In such instances, we would expect management to disclose plans to address the issue. We will not object if entities are unable to present data from years prior to December 31, 2000. We would accept a single year presentation. However, for years ending on or after December 31, 2001 we would expect two years of data in the presentation.

Superseded by AU-C 540.20.

7. If the notes do not address management's plans regarding a material deficiency, auditors should consider whether the disclosure is sufficient (see Auditing Standards Section ~~AU 431).~~ Auditors should also consider whether a going concern contingency exists (Auditing Standards Section ~~AU 341~~).

Superseded by AU-C 570.

8. While the Auditor of State believes all subdivisions with significant self-insurance commitments should have an actuary measure the liability annually, the Revised Code does not require this for all subdivisions or all types of insurance (see Appendix 2, following this page). If the Revised Code requires the measurement, but an entity elects not to comply, the entity would be unable to prepare the comparison of assets with actuarial liabilities, and auditors should consider (1) qualifying their opinions for an inadequate disclosure and (2) reporting a material noncompliance finding in the report on compliance and internal controls required by *Government Auditing Standards.*

   However, if the Revised Code does not require an entity to actuarially measure its liabilities, the lack of an actuarial disclosure would not affect auditors' reports. The disclosure could still describe the funding methods. An entity should also disclose if it were unable to pay claims in a timely manner.

9. The auditor's opinion encompasses the Note. The extent and nature of procedures is a matter of judgment based on risk, but might include the following:
   a. Briefly read policies to support that coverage is current for commercial policies.
   b. Perform the amended Chapter 6 procedures for the Ohio Compliance Supplement described in the Bulletin.
   c. Compare the assets disclosed to similar assets in the audited financial statements.
   d. Compare the last check written to a commercial carrier, to a pool, or to a third-party administrator to the invoice date to determine whether approved claims or premiums are paid reasonably currently.

Per Section II.4 in Bulletin 2011-08, 9.833 now requires twp. and counties to follow 9.833(C)(1), (2) and (4). (That is, the ***Single Subdivision Programs*** column applies to twp and counties re: (C)(1), (2) and (4).)

Summary of Revised Code Requirements Relating to Self Insurance

ORC Ref.	ORC Provision	Health Benefits Insurance Requirements per ORC 9.833				Liability Insurance per ORC 2744.08 & .081		
		Single Subdivision* Programs	Single Municipality, ~~Township, or County~~ Programs	Pool Members	Pools	Single Subdivision Programs	Pool Members	Pools
9.833(C)(2) 2744.08(A)(2)(a) 5705.13.(A)	1. Establish a separate internal service fund by ordinance or resolution to account for all claims, administrative and other related program costs.	Required	Permitted by 5705.13(A)	Required	N/A	Permitted by 5705.13(A) and 2744.08(A)2(a)	Requires AOS permission per 5705.12	N/A
9.833(C)(2)&(6) 2744.08(A)(2)(a) 5705.10	2. Recover self insurance fund costs by charges to other funds based on those funds' relative exposures or loss experiences. (These interfund charges should be recorded as revenues and expenditures rather than transfers, and are not subject to the restrictions on interfund transfers or 5705.14 - .16, ORC.)	Required, unless another financing source exists.	Required if using a separate fund, unless that fund has another revenue source.	Required, unless another revenue source exists.	N/A	Required if using a separate fund, unless that fund has another revenue source.	Required if using a separate fund, unless that fund has another revenue source.	N/A
9.833(C)(6) 2744.08(A)(2)(a) 5705.10	3. Charge claims, administrative and other related program costs directly to fund(s) based on the funds' relative exposures or loss experiences. Or may charge all costs to one fund and recover them from other funds based on those funds' relative exposures or loss experiences. (The statement in step 2 above about transfers applies here, too.)	N/A, must follow step 2.	Optional	N/A, must follow step 2.	N/A	Optional	Optional	N/A
9.833(C)(5) 2744.081(A)(4)	4. Pools can charge claims and other program costs to participating subdivisions based on the subdivisions' relative experience, loss exposure or as otherwise agreed by contract.	N/A	N/A	N/A	Required to remain solvent.	N/A	N/A	Required to remain solvent.
5705.13(A)(2)	5. Reserve fund equity to provide for self-insurance costs.	Permitted only for the self insurance fund.	Permitted only for the general or self insurance fund.	Prohibited	N/A	Permitted only for the general or self insurance fund	Prohibited	N/A

* Except municipal corporations, ~~townships and counties~~. Also, Chapter 5705 applies only to subdivisions with taxing authority, defined in 5705.01.

ORC Ref.	ORC Provision	Health Benefits Insurance Requirements per ORC 9.833				Liability Insurance per ORC 2744.08 & .081		
		Single Subdivision* Programs	Single Municipality, ~~Township, or County~~ Programs	Pool Members	Pools	Single Subdivision Programs	Pool Members	Pools
9.833(C)(1) 2744.081(A)(1) 5705.13(A)(3)	6. Compute an actuarial liability as of the last day of the fiscal year.	Required	Optional, but required for reserve accounts established per step 5.	N/A	Required	Optional, but required for reserve accounts established per step 5.	N/A	Required
9.833(C)(1) 2744.081(A)(1)	7. Prepare a report within 90 days of fiscal year end, listing: a. The actuarial liability as of the last day of the fiscal year; b. Program disbursements, including claims paid, legal representation and consultant costs. The program administrator must maintain this report.	Required	Optional	N/A	Required	Optional	N/A	Required
9.833(C)(1) & (4) 2744.081(A)(1) & (3)	8. Contract with a member of the American Academy of Actuaries. Obtain a report from the actuary annually, on the fair presentation of the actuarial liability presented in the report described in step 7.	Required	Optional	N/A	Required	Optional	N/A	Required
9.833(C)(7) 2744.081(B)	9. Establish a multi-subdivision cost containment program. May hire risk managers, health care cost containment specialists, other consultants to reduce health care costs.	Optional	Optional	Optional	Participating subdivisions can do this. The pool cannot do this directly.	Optional	Optional	Participating subdivisions can do this. The pool cannot do this directly.

ORC Ref.	ORC Provision	Health Benefits Insurance Requirements per ORC 9.833				Liability Insurance per ORC 2744.08 & .081		
		Single Subdivision* Programs	Single Municipality, ~~Township, or County~~ Programs	Pool Members	Pools	Single Subdivision Programs	Pool Members	Insurance Pools
9.833(C)(3) 2744.08(A)(2)(a) 2744.081(A)(2)	10. Contract, without the necessity of competitive bidding, to any person, political subdivision, nonprofit corporation organized under ORC 1702 or regional council of governments created under ORC 167, to administer a self insurance program.	Optional	Optional	Optional	Participating subdivisions can do this. The pool cannot do this directly.	Optional	Optional	Participating subdivisions can do this. The pool cannot do this directly.
9.833(C)(9) 2744.081(D)	11. Issue GO or special obligation bonds or notes in anticipation of these bonds pursuant to ordinance or resolution of the legislative body. Use the debt proceeds to pay claims or other costs associated with the self insurance program.	Optional	Optional	Optional	Participating subdivisions can do this. The pool cannot do this directly.	Optional	Optional	Participating subdivisions can do this. The pool cannot do this directly.
9.833(A)(2) 2744.08(A)(2)(b)	12. Contract between more than one subdivision for joint administration of a single subdivision self-insurance program.	Optional	Optional	N/A	N/A	Optional	N/A	N/A

* Except municipal corporations, ~~townships and counties~~.

Note: This table summarizes the requirements of Ohio Revised Code Sections 9.833, 2744.08, 2744.081 and 5705.13(A)(2). However, self-insured subdivisions and government self-insurance pools should refer to the statutes for the complete text of the legal requirements.

The first 7 pages summarized ORC amendments to school district set asides and fiscal caution / watch / emergency laws. You should refer to current ORC requirements, so those pages have been omitted. The Q&A below has been retained.

Date: May 29, 2001
Bulletin 2001-006

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~~ing deficit exceeding ten (10) per cent. These funds will be repaid by the school district no later than the end of the second fiscal year following the fiscal year in which the solvency assistance payment was made.~~

~~Catastrophic Expenditures Account - The money in this account is to be used solely for the following:~~

- ~~Solvency assistance to school districts that have been declared under division (B)(1) or (5) of Section 3316.03, R.C. , to be in fiscal emergency because of a certified operating deficit exceeding ten (10) per cent in the event all money in the shared resource account is used up; and~~

- ~~Grants to school districts that suffer an unforeseen catastrophic event that severely depletes the district's financial resources.~~

~~Funds disbursed from the catastrophic expenditures account for solvency assistance shall be repaid by the school district no later than the end of the second fiscal year following the fiscal year in which the solvency assistance payment was made. A school district will not be required to repay any grant awarded to the district under the catastrophic expenditures account unless the district receives money from a third party specifically for the purpose of compensating the district for expenses incurred as a result of the unforeseen catastrophic event.~~

A list of questions and answers relating to S.B. 345 follows. Additional questions regarding this bulletin should be directed to the Local Government Services Division at 1-800-345-2519 or to the Accounting & Auditing Support Division of the Auditor of State's Office at 1-800-282-0370.

QUESTIONS & ANSWERS

1. **Under the new base formula for calculating the ~~textbook set-aside and/or the~~ capital set-aside, does the "base cost per pupil" include the "cost of doing business factor"?**

   No. The formula amount as defined under Section 3317.02, R.C. is the base cost per pupil and does not include the "cost of doing business factor". ~~For fiscal year 2000, this amount was $4,052 and for fiscal year 2001 the amount is $4,294~~.

2. **If BWC refund monies in the budget reserve are used for the purchase of textbooks, will this expenditure count toward the 3% annual expenditure requirement under the textbook and instructional materials set-aside?**

   Yes.

See current ORC 3317.02(F): "Formula amount" means $5,900, for fiscal year 2016, and $6,000, for fiscal year 2017.

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3. **Similarly, if the BWC refund monies in the budget reserve are used for school facility construction, renovation or repair, will this expenditure count toward the 3% annual expenditure requirement under the capital and maintenance set-aside**?

   Yes.

4. **While not required to by law, a school district wishes to maintain a budget reserve and add to it any BWC rebate monies received in current or future years.**

   A. **Does the district have to close out their old budget reserve account if they plan to maintain a reserve?**

   No; however, the board must reauthorize via resolution the existence of the budget reserve consistent with Section 5705.13, R.C.

   B. **Must the district put the 2001 BWC rebate monies in a separate fund or can they put this with the existing budget reserve funds?**

   If the district board has reauthorized the existence of a budget reserve under Section 5705.13, the 2001 BWC rebate monies may be added to the reserve as long as the district complies with parameters established under Section 5705.13. (i.e., amount reserved cannot exceed 5% of the general fund's revenue for the preceding fiscal year). The board should authorize the increase in the budget reserve by resolution.

5. **If a school district does not have a "matching" requirement, but wants to put their budget reserve monies (non-BWC refund) in fund 010, Classroom Facilities, can they do this?**

   No, fund 010 is only for Classroom Facilities projects under Chapter 3318, R.C.

6. **Can a school district transfer funds directly from their budget reserve to the permanent improvement fund?**

   No, transferring funds directly from the budget reserve to the permanent improvement fund requires a court order. If the school district wishes to close out their budget reserve, they should return the monies to the general fund (transfer out of the special cost center), then transfer monies to the permanent improvement fund. The return of monies to the general fund is provided for in S.B. 345.

Note: Per OCS 1-11, fn 33, this Bulletin's accounting guidance still applies, but legal guidance may be superseded. Therefore we have retained this Bulletin, but you should refer to the latest ORC to update the legal requirements described in this bulletin.

Date: June 6, 2001
Bulletin 2001-007

AUDITOR OF STATE BULLETIN

SCHOOL DISTRICT TREASURERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS
OHIO SCHOOL FACILITIES COMMISSION

SUBJECT: CHANGES IN SCHOOL FACILITIES COMMISSION GRANTS/LOANS

The purpose of this Bulletin is to provide guidance regarding accounting and compliance issues related to Ohio School Facilities Commission (the Commission) grants/loans that have arisen since the passage of Amended Senate Bill 272, effective September 15, 2000.

Levy for Maintenance of School Facilities Projects

The proceeds of a levy authorized by Section 3318.06 of the Ohio Revised Code that are to be used for maintenance of a school facilities project under Chapter 3318 of the Ohio Revised Code should be receipted in the Classroom Facilities Maintenance Fund, fund number 034. This fund should be classified as a governmental fund type, special revenue fund. The tax levy proceeds generated for facilities maintenance are restricted to those maintenance expenditures associated with the project for which the levy was approved and are not available for maintenance of other school district facilities.

Prior to 1996, school districts participating in the classroom facilities program were required to pass a half-mill levy for the repayment of State funds loaned to the school districts for the construction of classroom facilities. The levy continued until the loan was repaid, but in no case for a period longer than twenty-three years. At the end of the twenty-three year period, any amount remaining was forgiven.

In 1996, the law was amended to permit the levy proceeds to be used for maintenance of the classroom facilities project provided the school district's adjusted valuation per pupil was less than the state-wide median. One-half of the levy was to be used for maintenance of the classroom facilities project and the other half of the levy was to be used to pay the cost of the purchase of the classroom facilities from the State. In addition, the School Facilities Commission could enter into a supplemental agreement with a school district that was paying the full amount of the half-mill levy to the State under the previous version of the code section. The supplemental agreement permitted repayment of the State's share based on the school district's valuation per pupil and use of the levy proceeds for facilities maintenance under the same terms stated above.

You should also read OCS step 1-11 for additional guidance. The following is excerpted from OCS step 1-11:

Locally Funded Initiatives:

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, NOT the project construction fund (USAS fund 010).***

AUDITOR OF STATE BULLETIN

Under Section 6 of Amended Senate Bill 272, any school district whose agreement with the Commission requires the school district to pay the State one-half of the tax levy is not be required to make any payments to the State after September 15, 2000.

Alternative to the One-Half Mill Maintenance Levy

Amended Senate Bill 272 permits a school district that has a continuing levy in place under Section 5705.21 of the Revised Code for on-going permanent improvements of at least two mills to earmark the equivalent of a one-half mill from that levy for a period of 23 years or the equivalent number of years as required under law. This option is only available if the permanent improvement levy allows for maintenance. The levy proceeds earmarked to be used for maintenance should be accounted for within the Classroom Facilities Maintenance Fund 034. The treasurer should file a copy of the resolution earmarking one-half mill of the levy with the county auditor of each county in which any part of the school district is located.

Exception to the Maintenance Levy Requirement for Certain Districts

The act provides a special exception to the maintenance tax requirement for school districts where the tax would raise only a small amount of money. It permits any school district board to not propose the maintenance tax to its voters if the Department of Taxation estimates that the tax during the first 12 month period of collection would raise less than ten percent of the amount that the district is required to deposit into its Capital and Maintenance Reserve Fund under Section 3315.18 of the Revised Code.

Options for Raising School District's Share of the Project

Leveraged Bonds - The act permits a school district, at its option, to apply the proceeds of either a previous or newly authorized property or income tax levy that is levied for general on-going permanent improvements to leverage (issue) bonds in an amount equal to all or part of the bond issue and tax levies otherwise required for participation in the Classroom Facilities Assistance Program. The earmarking of such tax proceeds and the issuance of bonds for that purpose may be done without voter approval as long as the proceeds may lawfully be used for general classroom facilities acquisition and maintenance. The treasurer shall file a copy of the resolution with the county auditor of each county in which any part of the school district is located. The bonds issued for this purpose are exempted from the debt limitation.

The bond proceeds are to be credited to fund 010, Classroom Facilities. The proceeds of the property tax levy or income tax revenues pledged for debt repayment are to be recorded to the bond retirement fund. A special cost center should be used to segregate the revenues and related debt payments from other debt service activity.

Local Donations - The act permits a school district to apply any local donated contributions toward the school district's share of the basic project cost and thus reduce the amount of bonds the school district must issue under the Classroom Facilities Assistant Program. Local donated contribution means money irrevocably donated or granted to the school district by some source other than the State, and cash the school district has on hand, which may include year-end operating balances or any letter of credit issued on behalf of the school district. Any local donated contributions must be credited to the school district's Classroom Facilities Project Fund 010.

The application of cash, operating fund balance, or letter of credit must be approved by the Ohio School Facilities Commission in consultation with the Department of Education.

Disbursement of Funds, Interest Earnings and Closing of Project Fund

The Ohio School Facilities Commission will disburse quarterly to the school district's project construction fund the State's share of the project. The amount disbursed is based on estimates provided by the school district and the construction manager.

Effective March 18, 1999, State statute requires that all interest earned on the investment of the project construction fund be credited to the project construction fund. Interest credited to the fund should be allocated by special cost center, splitting interest earned on the investment of local money from interest earned on the State's share.

The treasurer of the school district board is to disburse funds from the school district's project construction fund, including investment earnings credited to the fund, only upon the approval of the School Facilities Commission or their designated representative. The School Facilities Commission or their designated representative is to issue vouchers against the project fund, in accordance with the terms of the contracts for the construction of the project. Disbursements from the project fund are to be recorded to the appropriate special cost center in accordance with the spending priority established in the contract with the School Facilities Commission.

After the project has been completed:

(A) Any investment earnings remaining in the project construction fund that are attributable to the school district's contribution to the fund are to be transferred to the district's maintenance fund (fund 034) and used solely for maintaining the classroom facilities included in the project;

(B) Any investment earnings remaining in the project construction fund that are attributable to the State's contribution to the fund are to be remitted to the Commission for expenditure pursuant to sections 3318.01 to 3318.20 of the Revised Code.

(C) Any other surplus remaining in the school district's project construction fund after the project has been completed will be transferred to the Commission and the school district board in proportion to their respective contributions to the fund. Under Section 5705.14 of the Revised Code, the balance retained by the school district is to be transferred to the debt service fund for the retirement of the outstanding bonds.

Priority for Spending State vs Local Bond Monies

Under Section 3318.08 of the Revised Code, the Ohio School Facilities Commission will enter into a written agreement with the school district board for the construction and sale of the project. The agreement may include a number of provisions including the priority for spending State and local monies. In general, all State funds reserved and encumbered to pay the State share of the cost of the project should be spent on the construction or acquisition of the project prior to the expenditure of any funds provided by the school district for its share of the project. If the school district certifies to the Commission that expenditure of the school district's note or bond proceeds is necessary to maintain the tax-exempt status of the debt, the spending priority in the agreement with the Commission may be modified to allow expending all or a part of the school district funds prior to expending the State funds.

AUDITOR OF STATE BULLETIN

Need for Special Cost Centers

The need for special cost centers within the construction fund is driven by three issues. First, the district is required by statute (Ohio Rev. Code §3318.08 (Q)) to spend the State's share of the construction costs first. Second, the district may have rebatable arbitrage issues concerning the timely use of the debt proceeds. Finally, effective March 18, 1999, Ohio Rev. Code §3318.12 prescribes a different distribution at the end of the project for interest earned on the State's share as opposed to interest earned on the local share of the project. In order to have adequate records to address each of these issues, the district should create special cost centers within the construction fund to account separately for the State and local money and the interest earned on each.

Within USAS, the district would use the account edit program to establish revenue and expenditure accounts, assigning a special cost center between 0001 and 8999 to segregate the State and local money. The district would use the account edit program to establish a cash account for the construction fund using 0000 as the special cost center. If you elect to use special cost centers, remember that the expenditure accounts that will be used to pay a purchase order must be specified at the time the purchase order is prepared. If you anticipate paying a purchase order from accounts in both special cost centers, make sure all accounts are specified. It is difficult to add accounts or split payments later.

Budgetary

Once the grant or loan has been approved by the State, the treasurer should obtain an amended official certificate of estimated resources for all or part of the grant or loan, based on what is to be received in the current fiscal year. Any money expected to be received in the next year should be reflected on the next year's certificate.

The board of education must pass appropriations in accordance with the terms and conditions of the grant or loan. The failure of the board to appropriate the grant or loan funds prior to expenditure or obligation of funds will constitute a noncompliance citation during an audit. If the grant or loan will be expended over a period longer than the current fiscal year, only the amount estimated to be obligated during the current fiscal year should be recorded as appropriated. The remainder of the project should be appropriated in the subsequent year(s).

In situations when the grant or loan will be received after the expenditures have been incurred, it is possible that the district will have appropriated an amount in one fiscal year that is in excess of the amount reflected as available on the amended certificate of estimated resources. This situation will not constitute a noncompliance citation during an audit. This approach is only acceptable when the eventual receipt of the resources to pay for the full amount of the contract is certain, such as when the money will be coming from the State or Federal government based on an approved grant.

Payment of the Construction Manager

The construction manager will be paid directly by the State from the State's share of the project. The quarterly draw down schedule will document amounts paid to the construction manager during the preceding quarter. These amounts should be recorded as receipts of the State's share and as construction expenditures on the district's financial records. When establishing budgets for the project, these amounts should be included in estimated receipts and appropriations. When preparing GAAP financial statements, adjusting entries may be made to reflect these amounts in the proper fiscal year.

SEC Rule 15c2-12

This rule, adopted by the Securities and Exchange Commission, may place continuing disclosure requirements on school districts that issue bonds or notes to meet the local share requirement. Consult bond counsel to determine if your district will be subject to continuing disclosure and, if so, what you will be required to do to meet those requirements.

H.B. 412 Capital Set Aside Requirements

The annual proceeds of the half-mill levy used for maintenance qualifies as an offset to the capital set-aside requirements of H.B. 412. Proceeds of debt for classroom facility construction may also serve as an offset in the year the proceeds are received. Refer to Auditor of State Bulletin 98-014, question 15 for details.

Date: June 6, 2001
Bulletin 2001-007

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Retainage

The district will be required to retain a portion of the construction payments under the provisions of Ohio Revised Code §153.63. The specific requirements are set forth in the contract between the Commission and the district. Retainage will be deposited in an escrow account with an Ohio bank. It is recommended that retainage be reported on the district's balance sheet in an account such as "Cash and Cash Equivalents with Escrow Agent."

Other School Facilities Commission Programs

The School Facilities Commission manages the emergency school building repair program and the school building program assistance limited program (see Audit of State Bulletin 97-018). The Commission also awards grants for disability access projects. The grants for these programs are awarded under the rules adopted by the Commission. The funds established for these grants are as follows:

Disability Access Projects, Fund No. 495
School Building Program Assistance Limited, Fund No. 496
Emergency School Building Repair Program, Fund No. 497

Questions

Questions regarding this Bulletin may be directed to the Local Government Services Division of the State Auditor's Office at (800) 345-2519 or to the Ohio School Facilities Commission, at (614) 466-6290.

AUDITOR OF STATE BULLETIN 2001-008 **JULY 25, 2001**

TO: ALL COUNTY AUDITORS
ALL CITY AUDITORS AND FINANCE DIRECTORS
ALL COUNTY ENGINEERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

Also see amendments to this guidance in 2008-05 and 2008-07.

SUBJECT: INFRASTRUCTURE REPORTING UNDER GASB STATEMENT NO. 34

SUMMARY

The new financial reporting model established by GASB Statement No. 34 requires governments preparing their external financial reports in accordance with generally accepted accounting principles [GAAP][1] to begin reporting general infrastructure assets on their financial statements. The reporting of general infrastructure assets is not required immediately upon the adoption of the new model; the Statement provides for a 3-phase transition period.

Infrastructure assets are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. They include roads, bridges, lighting systems, drainage systems, dams, tunnels and water and sewer systems. General infrastructure assets are infrastructure assets that are associated with and generally arise from governmental (rather than proprietary) activities.

Infrastructure assets are reported at historical cost or estimated historical cost, generally net of accumulated depreciation. Estimated historical cost may be based on currently available documentation including financial reports, bond issuance information, construction contracts and engineering reports. Estimated historical cost also may be established by deflating current estimated replacement cost back to an estimated year of construction. Estimated or actual historical costs and depreciation may be established for individual infrastructure assets or for networks or subsystems of infrastructure assets.

Governments are required to report only major general infrastructure assets acquired or constructed in fiscal years ending on or after June 30, 1980 (i.e., for cities and counties, in fiscal years beginning on or after January 1, 1980). Major general infrastructure assets are networks or subsystems that represent either 10% (for a network) or 5% (for a subsystem) of general capital assets being reported at June 30, 1999 or December 31, 1999.

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[1] In Ohio, the State and its component units, including state community colleges and universities, local community colleges, and technical colleges; and cities, counties, school districts, and educational service centers all are required to report in accordance with GAAP. Generally, schools and ESCs do not have infrastructure as defined. Other units of government that choose to report in accordance with GAAP should apply the guidance in this Bulletin to their infrastructure asset reporting.

The Auditor of State, in consultation with the Ohio Department of Transportation and interested constituent groups, has determined whether cities, counties, or the State of Ohio should report certain highway and bridge infrastructure assets.

Calculating depreciation is not necessary for assets that are inexhaustible, such as land and some land improvements, construction-in-progress, and for infrastructure assets reported using the "modified approach".[2] The modified approach may only be applied to eligible assets and includes performing annual condition assessments and preserving the assets at a condition level adopted by governments. Instead of recording depreciation expense for these assets, the costs of maintenance and preservation are expensed.

REPORTING INFRASTRUCTURE

Under the current financial reporting model, most governments do not report general infrastructure assets. Under the new model created by GASB Statement No. 34 (the Statement), governments will be required to include general infrastructure assets as part of their annual financial statements.

DEFINITIONS

Capital assets are tangible or intangible assets that are used in operations and that have initial useful lives beyond one year. Capital assets include land and land improvements, buildings and building improvements, easements, vehicles, machinery, equipment, and infrastructure.

Infrastructure assets are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. Examples of infrastructure assets include roads, bridges, tunnels, drainage systems, water and sewer systems, dams and lighting systems.

General infrastructure assets are infrastructure assets that are associated with and generally arise from governmental activities[3].

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2 In certain circumstances, monuments and works of art and historical treasures also do not have to be depreciated.

3 Governments already report infrastructure assets associated with proprietary activities in the proprietary funds.

CLASSIFYING INFRASTRUCTURE ASSETS

The Statement allows governments to group infrastructure assets by *networks* and by *subsystems*.

A **network** of infrastructure assets is composed of all assets that provide a particular type of service for governments, such as a water distribution system or a sewage collection system. An infrastructure network may be comprised of dissimilar assets, such as a road network consisting of pavements, traffic control devices and signage. A network of infrastructure assets may also consist of only one infrastructure asset that is composed of many components. For example, a network of infrastructure assets may be a dam composed of a concrete dam, a concrete spillway and a series of locks.

A **subsystem** of a network of assets is composed of all assets that make up a similar portion or segment of a network of assets. For example, all roads of a government could be considered a network of assets and then divided into subsystems by type or by region.

The way governments elect to group general infrastructure is significant because the groups may be used to simplify calculations of estimated historical cost and depreciation. It is equally important to recognize that the way governments elect to group assets to satisfy financial reporting requirements may differ from the method used for management purposes.

Once classified by network and subsystem, governments can then identify what the Statement calls **major general infrastructure assets**. Major general infrastructure assets are defined as general infrastructure assets classified by subsystem or network that meet one of the following criteria:

> The cost or estimated cost of the subsystem is expected to be at least 5% of the total cost of all general capital assets reported by the government at June 30, 1999, or December 31, 1999; or
>
> The cost or estimated cost of the network is expected to be at least 10% of the total cost of all general capital assets reported by the government at June 30, 1999, or December 31, 1999.

The "cost of all general fixed assets" is the total reported cost of all general capital assets before any previously unreported infrastructure has been capitalized. The identification of major general infrastructure assets is critical because only major general infrastructure assets are required to be reported.

REPORTING REQUIREMENTS

Governments are *required* to report *major* general infrastructure assets that were acquired (purchased, constructed, or donated) or significantly reconstructed, renovated or restored, or that received significant improvements, from fiscal years ending June 30, 1980, and thereafter. Governments *may* report non-major assets and\or may extend the period into years prior to 1980 if records are available.

In general, infrastructure assets should be reported on the financial statements of the government responsible for managing[4] the assets.

TRANSITION REPORTING REQUIREMENTS

The Statement requires a government to begin reporting general infrastructure assets *prospectively* from the date the government first implements the new reporting model. For affected Ohio governments, this will mean tracking and reporting newly constructed or acquired general infrastructure assets for the year of implementation and thereafter. (This would also include significant improvements, additions, renovations etc.)

The Statement does not require the immediate reporting of major general infrastructure assets acquired or constructed prior to the year the Statement is first implemented. Instead, the Statement creates a transition period for the retroactive reporting of major general infrastructure assets. Based on the Statement guidelines, governments are not required to report major general infrastructure assets acquired, reconstructed, improved etc. between 1980 and the year of implementation until 2006 or 2007[5].

During this transition period, information for those networks of general infrastructure assets for which information is available may be reported. It is hoped that governments have sufficient records to report most, if not all, retroactive general infrastructure networks in the year of implementation of the Statement.

HIGHWAYS AND BRIDGES

Highways and bridges represent a major infrastructure investment of the State, counties, cities, and other units of government. As it is not always clear which of these entities is responsible for managing the assets, the Auditor of State, in consultation with the Ohio Department of Transportation and various groups representing counties, cities, and others, has determined which of these entities are most appropriately required to report these assets in accordance with GASB Statement No. 34. This determination is included as Appendix 1 to this Bulletin.

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[4] The GASB did not define "managing". It is generally thought to mean,"…maintained in a condition that will allow them to be used longer than most other capital assets." Simple maintenance such as snow removal is probably not managing, whereas, assessing the condition of and repairing an asset so it may be used in the manner intended probably is "managing".

[5] The transition period varies depending upon the government's *1999* revenues as defined in GASB Statement No. 34. For governments with such revenues of $100 million or more, the required year to fully report retroactive infrastructure assets is 12/31/2006. For governments with such revenues of $10 million - $100 million, the required year to fully report retroactive infrastructure assets is 12/31/2007. Governments with less than $10 million of such revenues are exempt from required *retroactive* reporting of infrastructure assets.

GASB Implementation Guide 7.12.2 (reproduced on the next page) clarifies whether the legal owner vs. entity responsible for managing infrastructure should report it. However, AOS will not require restatements if entities responsible for managing or maintaining infrastructure have reported it since adopting these requirements.

7.12.2. *Q*—Footnote 67 of Statement 34 states that the government that has the primary responsibility for managing an infrastructure asset should report the asset. What is the significance of ownership to the responsibility for managing and maintaining an asset?
A—The guidance in footnote 67 applies only in instances when ownership is unclear. Ownership of land and buildings, for example, can usually be clearly determined through review of appropriate documents, such as deeds, easements, and contracts. Ownership of infrastructure associated with land, such as roads, sidewalks, and sewers, may not be as clearly documented. In such cases, the government with primary responsibility for managing the asset should report the asset.

REPORT PRESENTATION

Infrastructure assets that have been or are being depreciated are reported on the Statement of Net Assets net of accumulated depreciation.

Infrastructure assets that are not being depreciated are also reported on the Statement of Net Assets but in a separate account.

Depreciation expense for infrastructure assets is included on the Statement of Activities in the direct expenses of the function that the government normally associates with capital outlays for, and maintenance of, infrastructure assets. If an asset serves many functions, it may be reported as a separate line, or in the General Government line, in the Statement of Activities.

The initial capitalization amount for general infrastructure assets should be based on historical cost. If adequate records are not available to establish historical cost, governments may report estimated historical cost.

ESTABLISHING HISTORICAL COST OR ESTIMATED HISTORICAL COST

Cost should include ancillary charges[6] necessary to place the asset in its intended location and condition for use. These charges include freight and transportation, site preparation costs, and professional fees.

There is no prescribed method for establishing estimated historical cost. Any method "that complies with the intent" of GASB Statement No. 34 is acceptable. The intent of GASB Statement No. 34 is to require the reporting of a beginning general infrastructure asset balance that is based on reasonable assumptions using whatever documentation is currently available. Since governments will be required to report general infrastructure assets acquired in or after the first year of implementation using actual cost, the expectation is that this initial amount will improve over time.

Estimated cost may be based on documents related to a bond issue for obtaining financing for the construction or acquisition of infrastructure assets, expenditures reported in capital projects funds or capital outlays in governmental funds, capital budgets, engineering documents and evidence of contract awards.

One method for establishing estimated cost described in the Statement is to estimate current replacement cost and then deflate that cost back to an estimated year of construction or acquisition using a price index. For example, assume that in 1998 a government has 65 lane-miles of roads in a secondary road system and that current construction cost is $1 million per lane-mile. The roads

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[6] GASB Statement No. 37 removed the requirement to capitalize interest on general infrastructure assets

have an estimated weighted average age of 15 years. Based on the Federal Highway Administration's *Price Trend Information for Federal Aid Highway Construction* for 1983 and 1998, 1983 construction costs were 69.03% of 1998 costs. The estimated cost of the subsystem is $44,869,500 (65,000,000*.6903).

Similar estimates could be used for other types of infrastructure assets such as sidewalks using square footage, curbs using lineal footage or miles, and bridges using the span footage or deck area.

DEPRECIATION

In general, capital assets should be depreciated by allocating their net cost (historical cost less estimated salvage value) over their estimated useful lives. Inexhaustible capital assets, that is, assets whose economic benefit or service potential is used up extremely slowly, are not depreciated. Examples of inexhaustible assets are land and some land improvements, construction-in-progress, and, in certain circumstances, certain monuments and works of art and historical treasures. Land improvements that would not be depreciable include such things as excavation, fill, and grading.

Appendix 2 to this Bulletin provides examples of calculations for estimating historical cost and for calculating accumulated depreciation and depreciation expense.

THE MODIFIED APPROACH

GASB Statement No. 34 provides an alternative to recording depreciation for infrastructure fixed assets under what is described as the modified approach. Under the modified approach, infrastructure assets that are part of a network or a subsystem of a network (eligible assets) are not depreciated. Instead of recording depreciation expense, all maintenance and preservation[7] expenditures for these eligible assets are expensed.

Expenditures that are additions or improvements to those assets are capitalized. Additions and improvements are defined as expenditures that increase the capacities or the efficiency of the assets. A change in capacities increases the level of service provided by an asset. An increase in efficiency maintains the same level of service but at a reduced cost. In order to use the modified approach, governments must meet the following requirements:

First, governments must:

maintain an up-to-date inventory of the eligible infrastructure assets;

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[7] *Preservation* expenditures extend the useful life of an asset beyond its original estimated useful life.

perform condition assessments[8] of the eligible assets and summarize the results using a measurement scale; *and*

estimate each year the annual amount to maintain and preserve the eligible assets at the condition level established and disclosed by governments.

Second, governments must document that the eligible assets are being preserved approximately at, or above, a condition level formally established and disclosed by the government.

The documentation must substantiate that complete condition assessments of eligible assets are performed in a consistent manner at least every three years and that the results of the three most recent condition assessments provide reasonable assurance that the eligible assets are being preserved approximately at, or above, the condition level established and disclosed by the government. Condition assessments must be documented in such a manner that they can be replicated. The assessments must be based on sufficiently understandable and complete measurement methods that different measurers using the same methods would reach substantially similar results.

There are additional *disclosure* requirements if a government elects to use the modified approach[9]. There are also additional transition guidelines that allow the modified approach to be used if at least one complete condition assessment is available, the assessment was completed within the last three years, and the government can document that the eligible assets are being preserved at or above the established condition level. If a government elects to report a network or subsystem of infrastructure assets using the modified approach, the assets would be capitalized and presented on the financial statements at full estimated cost (not net of accumulated depreciation).

Your independent auditor or regional Auditor of State's office.

If you have any questions about this Bulletin, please contact ~~Mike Howard at (614) 466-5085 or (800) 282-0370~~.

Appendix 1 - GASB 34 Infrastructure Reporting

		Political Subdivision to Report					
Infrastructure Type	**Legal Ref.**	**State**	**County**	**City**	**Village**	**Township**	**Comment**
Interstate Highway (Within Corporation Limits)	ORC 5511.01, 5521.01	X					1
Interstate Highway (Outside Corporation Limits)	23 USC 116, ORC 5511.01	X					
US Routes & State Highway In City (>5,000) Corp. Limits	ORC 5511.01, 703.01			X			1
US Routes & State Highway In village(< 5,000) Corp. Limits	ORC 5521.01, 703.01	X					1
US Routes & State Highway (Outside Corporation Limits)	ORC 5511.01	X					
Toll Road	ORC 5537.17, 5537.21	X					2
County Road Outside Municipal Corporations	ORC 5541.02		X				3
County Road Inside Municipal Corporations	Comment 9			X	X		9
City Street	ORC 723.01			X			
Village Street	ORC 723.01				X		

[8] As described in GASB Statement No. 34, ¶ 341, "Governments may use a variety of methods to measure the condition of their infrastructure assets. For example, several different approaches may be taken to measure the condition of paved roads. Some measure only road smoothness, others measure the distress on the pavement's surface, and others use a combination of these measures. For purposes of this Statement, any of these methods would be acceptable...". See GASB 34, pages 275 - 277 for an example.

[9] See GASB Statement No. 34, pages 275 - 277 for a sample of required disclosures.

Infrastructure Type	Legal Ref.	Political Subdivision to Report					Comment
		State	County	City	Village	Township	
Township Road	ORC 5535.08					X	4
Interstate Highway Bridge	23 USC 101, 23 USC 116	X					
Interstate Bridge (between two States EXCEPT bridges from transferred from the Ohio Bridge Commission)	ORC 5501.44	X					7
Interstate Bridges (transferred from the Ohio Bridge Commission)	Am. Sub. HB 98 (1982) Section 4	X					8
State Highway Bridge (Within Corporation Limits)	ORC 5591.02 & OAG 74-007 ORC 5591.21		X				
State Highway Bridge (Outside Corporation Limits)	ORC 5511.01, 5535.01	X					
County Road Bridge	ORC 5591.02 & OAG 74-007 ORC 5591.21		X				
Township Road Bridge	ORC 5591.21, 5535.01		X				
Village Street Bridge (with or without stream or canal)	ORC 5591.02, 5591.21		X				~~1~~
City Street Bridge Not Crossing a Stream or Canal	ORC 723.01			X			
City Street Bridge Crossing a Stream or Canal	ORC 5591.21		X				
Lift Bridge (on a state highway within a municipal corporation)	ORC 5501.49 & 5591.02	X	X	X	X		5
Toll Bridge Built by State (part of the state highway system)		X					
Toll Bridge Built by County or City Bridge Commission	ORC 5593.23	X					6
Interstate Highway Land	ORC 5501.31	X					
State Highway Land	ORC 5501.31	X					
Toll Road Land	ORC 5537.04 (A)(8) & ORC 5537.06	X					2
County Road Land	ORC 5535.01 (B) & ORC 5501.01		X				
City Street Land	ORC 719.01 & ORC 723.01			X			
Village Street Land	ORC 719.01 & ORC 723.01				X		
Township Road Land	ORC 5535.01 (C) &ORC 5501.01					X	

See amendments regarding these bridges in Bulletins 2008-05 & 2008-07.

Comments:

1. While cities are required to maintain these roads by statute, they may enter into agreements with ODOT to assist. Any assistance by ODOT is purely discretionary. (See *Harris v. ODOT*, 83 Ohio App.3d 125 for additional discussion.) ODOT has responsibility for the maintenance of state highways within a village if a village passes a resolution requesting ODOT's assistance. Traditionally, ODOT has taken responsibility for the maintenance of all interstate highways and all US routes and state highways within villages.

2. Reported by the Ohio Turnpike Commission, which is not part of the State of Ohio Reporting Entity, per GASB 14 criteria.

3. County may take responsibility, with ODOT's approval, for any road and designate them as a county road, within requirements of ORC 5541.01 and 5541.02.

4. Those roads not designated as part of the state or county highway system are, by default, township roads. This does not include city or village streets within the municipal corporations. See ORC 5535.01 for definitions.

5. Only lift bridges necessary for state highway system are the responsibility of the state. Otherwise, the county or other person responsible for maintaining pavements on either end of the bridge are responsible for maintaining the lift bridge, unless otherwise specified.

6. Prior to the extinguishment of the bridge revenue bonds, the maintenance of the bridge is the responsibility of the bridge commission. State of Ohio management is not aware of any bridge commissions operating in Ohio.

7. For bridges that connect two states, ODOT enters into an agreement, on behalf of the State of Ohio, to complete maintenance of these facilities. Generally, the agreement states that each State is responsible for 50% of the maintenance costs of the bridge structure.

8. Amended Substitute House Bill 98 (1982) Section 4 transferred responsibilities for bridges formerly maintained by the Ohio Bridge Commission to ODOT.

9. County roads within municipal corporations are the responsibility of the municipal corporation. In effect they lose their status as county roads within municipal corporations and become city/village roads. (See *Peninsula v. Summit Cty*., (1985), 27 Ohio App.3d 252, and *Sanders v. Butler County Com'rs*., 2000 WL 1145469, Ohio App. 12 Dist., Aug. 14, 2000)

Definitions:

State roads include the roads and highways on the state highway system. (ORC 5535.01 (A))

County roads include all roads which are or may be established as part of the county system of roads as provided in ORC 5541.01 to 5541.03. (ORC 5535.01 (B))

Township roads include all public highways other than state or county roads. (ORC 5535.01 (C))

A road or highway includes "bridges, viaducts, grade separations, appurtenances and approaches on or to such road or highway." (ORC 5501.01 (C))

The state highway system is not defined in the Ohio Revised Code. However, ORC 5511.01 does state that the ODOT director shall make a map showing all state highways and thus the state highway system. This map is distributed to the public as the official Ohio Transportation map.

Limited Access Highway is a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Director. All interstate highways and some Federal and state highways are limited access.

APPENDIX 2 - DEPRECIATION EXPENSE

Depreciation expense for a capital asset that can be specifically identified with a function is included in its direct expenses reported on the Statement of Activities. The depreciation expense of a capital asset that is shared among several functions is included ratably in the direct expenses of those functions. The depreciation expense of capital assets that essentially serve all functions, such as a government's hall, is not required to be allocated. This expense may be presented in a separate line on the Statement of Activities or it may be included in the general government function.

The depreciation expense for general infrastructure assets should be reported as a direct expense of the function that governments normally associate with capital outlays for, and maintenance of, infrastructure assets, such as public works.

CALCULATING DEPRECIATION

Governments may use any established depreciation method. Depreciation may be based on the estimated useful life of a class of assets, a network of assets, a subsystem of assets or individual assets. For useful lives, governments can use: a) general guidelines obtained from professional or industry organizations, b) information for comparable assets of other governments, or c) internal information. In determining useful life, governments should also consider an asset's present condition and how long it is expected to meet service demands.

To finish the example from page 6, above, assume that the road subsystem had an estimated useful life of 25 years and no residual value. Using straight line depreciation, annual depreciation expense would be $1,794,780 ($44,869,500 /25). Accumulated depreciation in 1998 would be $26,921,700 ($1,794,780*15) and the subsystem would be reported at $17,947,800.

Group and Composite Methods

Governments may calculate depreciation expense using either a group or composite depreciation method. Group depreciation refers to calculating depreciation for a collection of similar assets, such as traffic signals or lane-miles of pavement in a roadway system. Composite depreciation refers to calculating depreciation for a collection of dissimilar assets, such as all assets composing a transportation network or a building. The accounting is the same for both the group or composite method. Depreciation expense is calculated by multiplying a composite depreciation rate times the cost of the collection as a whole.

A composite depreciation rate can be calculated using a weighted average or an unweighted average estimate of the useful lives of the assets in the composite. A composite rate could also be based on an assessment of the useful lives of the collection. This assessment could be based on condition assessments or experience with the useful lives of the assets in the collection. For example, engineers may determine that highways have estimated remaining useful lives of twenty years based on experience. The annual depreciation rate for the highways would be 5%.

DEPRECIATION EXAMPLES

The following samples are taken from the GASB Implementation Guide for GASB Statement No. 34.

1. Calculating Composite Depreciation Rates

Statement of facts:

The government applies the composite depreciation method to its transportation infrastructure network. The network consists of the following components:

Component	Estimated Useful Life	Estimated Cost
Bridges	50	$2,000,000
Roadways	25	10,000,000
Curbs/gutters	15	1,000,000
Street lights	15	750,000
Traffic signals	18	750,000
Street signs	10	250,000
	133	$14,750,000

Unweighted-average method:

The average estimated life of the components is 22.17 years (133 / 6). The composite depreciation rate would be 1/22.17 = 4.5% per year.

Weighted average method:

The composite rate is calculated by weighting estimated useful lives by the depreciable cost of the asset.

Estimated Useful Life	Estimated Cost	Salvage Value	Depreciable Cost	Column 1 X Column 4
50	$2,000,000	$ -	$2,000,000	$100,000,000
25	10,000,000	-	10,000,000	250,000,000
15	1,000,000	-	1,000,000	15,000,000
15	750,000	750	749,250	11,238,750
18	750,000	-	750,000	13,500,000
10	250,000	250	249,750	2,497,500
	$14,750,000	$1,000	$14,749,000	$392,236,250

The weighted average estimated useful life of the components is: $392,236,250 / $14,750,000 = 26.59 years. The composite depreciation rate using the weighted average life is 1 / 26.59 = 3.8%.

2. Applying Group Depreciation to Infrastructure Assets at Transition and in Subsequent Years

This example illustrates the entries to record infrastructure assets at transition, to calculate depreciation using a group method, and to record the subsequent removal and replacement of a portion of the infrastructure.

Summary of Facts:

The government is adopting GABS Statement No. 34 and retroactively recording its general infrastructure for the year ending December 31, 2002. During the period January 1, 1980 through December 31, 2001, the government made improvements to 855 lane-miles of secondary roads in accordance with its biennial capital budget as shown below. The government plans to account for these improvements as a group and to apply the straight line method of depreciation.

The engineer estimates that roads have a useful life of 25 years and no salvage value. Historical cost has been estimated as follows:

Project Year	Total Project Budget	Lane-miles
2001	$ 40,125,000	75
1999	36,075,000	65
1997	53,675,000	95
1995	55,500,000	100
1993	22,000,000	40
1991	35,425,000	65
1989	54,000,000	100
1987	34,775,000	65
1985	50,350,000	95
1983	39,375,000	75
1981	42,000,000	80
	$463,300,000	855

The next project to be completed is the removal and replacement of 80 lane-miles of secondary roads at a cost of $45,600,000 on December 31, 2003.

Recording Assets at Transition

In order to record the secondary roads at transition, the accumulated depreciation at December 31, 2001 should be computed. Using the straight line method, the annual depreciation rate is determined directly from the estimated useful life as follows: 1 / 25 = .04 per year.

The government assumes that each project was completed at the end of the project year and, therefore, no depreciation is recognized in that year.

Project Year	Estimated Cost	Years of Acc. Depreciation	Rate	Total Acc. Depreciation
2001	$ 40,125,000	0	.04	$ 0
1999	36,075,000	2	.04	2,886,000
1997	53,675,000	4	.04	8,588,000
1995	55,500,000	6	.04	13,320,000
1993	22,000,000	8	.04	7,040,000
1991	35,425,000	10	.04	14,170,000
1989	54,000,000	12	.04	25,920,000
1987	34,775,000	14	.04	19,474,000
1985	50,350,000	16	.04	32,224,000
1983	39,375,000	18	.04	28,350,000
1981	42,000,000	20	.04	33,600,000
	$463,300,000			$185,572,000

The government would record the network of roads at $277,728,000 which equals the estimated cost less the accumulated depreciation. Depreciation expense for 2002 would be $18,532,000 ($463,300,000 X .04) and would be assigned to the program that the government normally associates with capital outlays for, and maintenance of, roads, such as public works.

Recording the Replacement of 80 Lane-miles of Road

Using group or composite methods, no gain or loss is recorded upon the retirement of assets within the group. Accordingly, cost (or, in this case, average cost) is removed from the asset account and charged to accumulated depreciation. The entry to record the replacement of the 80 lane-miles of secondary roads at December 31, 2003 would be:

Accumulated depreciation (80 lane-miles X average cost [$463,300,000 / 855])	43,349,708	
Infrastructure - secondary roads		43,349,708
Infrastructure - secondary roads	45,600,000	
Cash		45,600,000

Calculating Annual Depreciation Expense in Future Years

Depreciation expense in future years would be computed by applying the annual depreciation rate to the current balance in the infrastructure - secondary road account as follows:

Beginning balance of infrastructure - secondary roads	$463,300,000
Retirements	(43,349,708)
Additions	45,600,000
	465,550,292
Depreciation Rate	.04
Depreciation Expense	$ 18,622,012

3. Calculating Weighted Average Age for General Infrastructure Assets at Transition

Use of an average age of general infrastructure assets can simplify the calculation of accumulated depreciation at transition.

Summary of Facts:

A government has a 35 mile arterial road that has been subject to multiple construction projects that overlap earlier projects since 1980, as shown in the following schedule:

Year	Project	Mileposts
1980	1	1 - 15
1982	2	16 - 25
1984	3	26 - 30
1988	4	6 - 12
1989	5	26 - 35

If construction costs are known, weighted average age may be computed on the proportion of costs to the total. Alternatively, weighted average may be calculated in proportion to the number of miles constructed.

				Age Weighted by Cost		Age Weighted by Miles	
Year	Project	Mileposts	Age in 2002	Cost (in 000s)	Cost X Age	Number of Miles	Miles X Age
1980	1	1 - 15	22	$15,000	$330,000	15	330
1982	2	16 - 25	20	10,300	206,000	10	200
1984	3	26 - 30	18	5,500	99,000	5	90
1988	4	6 - 12	14	10,500	147,000	7	98
1989	5	26 - 35	13	16,000	208,000	10	130
				$57,300	$990,000	47	848
Average Age:					17.28		18.04

Neither method of computing an average age is recommended over the other. Governments should consider their own facts and circumstances including the costs of obtaining the information needed by the alternative methods.

Also see related guidance and audit tests in OCS Step 1-27.

AUDITOR OF STATE BULLETIN 2001-011
NOVEMBER 8, 2001

TO: ALL COUNTY AUDITORS/TREASURERS
ALL CITY AUDITORS, FINANCE DIRECTORS & TREASURERS
ALL VILLAGE FISCAL OFFICERS
ALL TOWNSHIP CLERKS
ALL INDEPENDENT PUBLIC ACCOUNTANTS
ALL SCHOOL DISTRICT TREASURERS
ALL JOINT VOCATIONAL SCHOOL DISTRICT TREASURERS
ALL LIBRARY CLERKS/TREASURERS

SUBJECT: ELECTRIC DEREGULATION KILOWATT-HOUR (kWh) TAX
Senate Bill 3, as amended by Senate Bill 287, both 123rd General Assembly
Also amended by House Bill 94, 124th General Assembly

Electric Deregulation

Electric deregulation took place January 1, 2001. Under prior law, an electric company's taxable production equipment was assessed at 100% of true value, while all of its other taxable property was assessed at 88% of true value. This legislation provides the assessment rate for the taxable transmission and distribution property of an electric company remains at 88% of true value, but all other taxable property of the electric company is now assessed at 25% of true value.

Prior law assessed all taxable property of a rural electric company[1] at 50% of true value. This legislation provides the assessment rate for taxable transmission and distribution property of a rural electric company remains at 50% of true value, but all other taxable property of a rural electric company is now assessed at 25% of true value.

To help offset loss of revenue, for the purpose of raising revenue for public education and state and local government operations, an excise tax was levied and imposed on electric distribution companies[2] for all electricity distributed by such company beginning with the measurement period that includes May 1, 2001, at the following rates per kilowatt hour (kWh) of electricity distributed in a thirty-day period by the company through a "meter of an end user in this state"[3]

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[1]"Rural electric company" is defined as any nonprofit corporation, organization, association, or cooperative engaged in the business of supplying electricity to its members or persons owning an interest therein in an area the major portion of which is rural.

[2]"Electric distribution company" is defined by the act as either 1)a person, **including a political subdivision of the state**, that distributes electricity through a meter of an end user in this state or to an unmetered location in this state (this includes a municipal electric utility), or 2)the end user of electricity in Ohio, if the end user obtains electricity that is not distributed or transmitted to an end user by an electric distribution company that is required to remit the kWh tax. An electric distribution company does not include the end user of electricity in Ohio who self-generates electricity that is used directly by the end user on the same site that the electricity is generated.

[3] The "meter of an end user in this state" means the last meter used to measure the kWh distributed by an electric distribution company to a location in this state, or the last meter located outside of this state that is used to measure the kWh consumed at a location in this state.

Kilowatt Hours (kWh) Consumed	Rate per kWh
0-2000	$0.00465
2001-15,000	$0.00419
15,000 +	$0.00363

The tax for distribution for other than a 30-day period is calculated by dividing the days in the measurement period into the total kWh measured during the measurement period to obtain a daily average usage. The tax must be determined by obtaining the sum of (1), (2), and (3) below and multiplying that amount by the number of days in the measurement period:

(1) Multiplying $0.00465 per kWh for the first 67 kWh distributed using a daily average

(2) Multiplying $0.00419 for the next 68 to 500 kWh distributed using a daily average

(3) Multiplying $0.00363 for the remaining kWh distributed using a daily average.

Example A
For example, assume A. J. Twain used 200,000 kWh during May 2001. To calculate the tax owed by the electric distribution company, divide the usage by the number of days to obtain daily average use. (200,000/31=6451.61/day) Follow the chart above and assess $.00465 on the first 67 kWh (2000/30=67), $.00419 on the next 433 kWh (15000/30 minus 67=433), and $.00363 on the remaining 5951.61 kWh.

kWh/ 30 days	kWh/day	Rate	Tax
First 2000	67	$.00465	$0.31155
2001-15,000	433	$.00419	$1.81427
+15,000	5951.61	$.00363	$21.60434
Total	**6451.61**	**N/A**	**$23.73016**

Daily tax $23.73016*31 days=$735.63 kWh tax paid based on A. J. Twain's usage for May 2001.

Large Users
A self-assessing option exists for large users consuming more than 45 million kWh annually, allowing for a rate of $.00075 per kWh (capped at 504 million kWh) plus 4% of the total price of electricity delivered. These self-assessing customers must annually register with the Department of Taxation and pay a five hundred-dollar annual fee to the State. A self-assessing customer in a municipal electric community is required to remit the kWh tax directly to the community.

Municipal Electric Systems
Municipal electric systems are required to pay the same new tiered kWh usage tax as other distribution utilities. If the electric distribution company required to pay the tax imposed by section 5727.81 of the Ohio Revised Code is a municipal electric utility, it **may** retain in its General Fund[4] that portion of the tax on the kilowatt hours distributed to end users located **within** the boundaries of the municipal corporation (including self-assessing customers). However, the amount of the tax associated with inside customers **must** be allocated to the community's general fund and the community **may** retain the money in the General Fund. If a Municipal Electric System fails to allocate the kWh tax to the General Fund, the Auditor of State will issue a Finding for Adjustment against the Electric Fund and in favor of the General Fund.

The municipal electric utility **must** make payment to the state, by the 20th of the next month following billing, on the kilowatt hours distributed to end users located **outside** the boundaries of the municipal corporation. Note: This legislation did not change the rule that municipal electric systems are restricted to making no more than one-third of their total sales outside city or village limits.

The municipal electric utility must levy and impose the tax to all locations except for the facility where the electricity is generated, whether they bill that location or not. For example, a City would levy and impose the tax on other City locations such as the sewer plant, fire station, and even the usage associated with street lights.

Assumptions Made for Examples B, C, and D
These examples illustrate the recommended accounting treatment to account for the kWh tax required to be levied and imposed by a municipal electric distribution company. These examples have been simplified for the purpose of this bulletin. The tax imposed is based on usage by end users and assumes all users have used the same kilowatt hours of electricity, therefore, a uniform percentage allocation can be made between inside and outside customers. Also, the examples assume the municipal electric system passed the tax onto each customer. In practice, the tax imposed will have to be calculated based on the usage from each meter of an end user according to the tiered rate structure, as illustrated in Example A.

Example B
Cash Basis Example-Village
Assume a Village's obligation equals $10,000 in kWh tax revenue and 80% of the customers are within the Village's boundaries. Therefore, the Village must allocate and may retain 80% or $8,000 in their general fund and must remit 20% or $2,000 to the Treasurer of State[5].

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[4]We interpret community general fund to mean the money should be recorded as revenue in the general fund, but must first be received by the electric fund (enterprise fund type) and allocated to the general fund.

[5]Payment required to be remitted to Treasurer of State. However, beginning January 1, 2003, the electric distribution company shall pay the tax to the Tax Commissioner in accordance with section 5727.82 of the Ohio Revised Code, unless required to remit each tax payment by electronic funds transfer to the Treasurer of State in accordance with section 5727.83 of the Ohio Revised Code.

Example B (continued)

Fund	Line	Debit	Credit
Utility	Cash	$10,000	
Utility	Other Local Tax Revenue (Village Code 190)		$10,000
To record "proceeds" of $10,000 to the Utility Fund for kWh tax			

General	Cash	$8,000	
General	Other Local Tax Revenue (Village Code 190)		$8,000
Utility	Other Local Tax Revenue (Village Code 190)	8,000	
Utility	Excise Tax Expense	2,000	
Utility	Cash		10,000
To allocate the Government's 80% share to the General Fund and remit 20% to the State			

Example C

Generally Accepted Accounting Principles (GAAP) Basis Example-City

Assume a City's billing cycle ends prior to year end and the obligation for kWh tax is $25,000. The City passes the tax onto its customers and nothing has been collected prior to year end. $21,000 of the tax is associated with customers within the city limits and $4,000 associated with customers outside the city limits.

Fund	Line	Debit	Credit
Utility	Excise Taxes Receivable	$25,000	
Utility	Due to General Fund		$21,000
Utility	Intergovernmental Payable		$4,000
To accrue the proceeds of $25,000 to the Utility Fund for kWh tax billed but not collected at year end and show the obligation to the state.			

General	Due from Utility Fund	$21,000	
General	Locally Levied Tax Revenue		$21,000
To accrue the Governments share owed to the general fund.			

Note: A GAAP basis government shall follow the same accounting guidance as described in Example B above to record kWh tax activity for transactions occurring during the year.

Example D
Assume the same facts as the cash basis example above (Example B); however, the Government's kWh tax levied and imposed equals $10,000, however the government only collects $9,000 from their customers ($1,000 is uncollectible as of the 20th). The Government would still be required to remit 20% of the billing or $2,000 to the State, since there is no credit given for uncollectibles. Additionally, the Government would also be required to allocate $8,000 to the general fund, since the law requires the kWh tax to be allocated whether collected or not. All electricity delivered is subject to the kWh tax (including streetlights, village hall, water plant) whether or not an electric bill is generated.

Record-keeping Requirements
Every person 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. The records must be available for inspection by the Tax Commissioner or the Commissioner's authorized agent, upon request of the Commissioner or agent.

Mandatory Registration with the Tax Commissioner
The act prohibits a person from distributing electricity to a meter of an end user in this state if the person (Municipal Government) is not registered with the Tax Commissioner as an electric distribution company before May 1, 2001. Each person required to register must do so prior to distributing electricity.

Accounting Treatment-State
$552 million of kilowatt-hour tax is projected to be collected each year by the state from electric distribution companies. 37% of the tax is to be deposited in Property Tax Replacement Funds created by the legislation, to be distributed to school districts and other local governments to replace tax revenues lost due to the reduction in the assessment rate for tangible personal property. A Local Government Property Tax Replacement Fund is to receive 11.1% of the total tax and the School District Property Tax Replacement Fund will receive 25.9% of the total tax.

The remaining 63% of the tax is to be split among the State's General Revenue Fund (GRF-59.976%), the Local Government Fund (LGF-2.646%), and the Local Government Revenue Assistance Fund (LGRAF-.378%). If the $552 million annual target is not met, in fiscal years 2002 to 2006, the GRF share is reduced in order to credit the LGF and LGRAF their share. Beginning in fiscal year 2007, if the $552 million annual target is not met, the GRF share is reduced in order to credit all the other funds their proportionate share.

Applicability to County Auditors/Treasurers
Not later than the thirty-first day of December of 2001 through 2005, the tax commissioner shall certify to each county auditor the tax levy loss for each school district, joint vocational school district, and local taxing unit in the county. Not later than thirty-first day of January 2002 through 2011, the county auditor shall determine the administrative fee loss (due to tax value loss) for the county and apportion that loss ratably among the school districts, joint vocational school districts, and local taxing units on the basis of the tax levy losses certified.

For years 2002 to 2006, the administrative fee loss is determined by *multiplying* the fixed-rate levy loss[6] and fixed-sum levy loss[7] determined for all taxing districts in the County by .9659%, if total taxes collected in the county in tax year 1999 exceeded $150,000,000 or 1.1159% if total taxes collected in the county in tax year 1999 were $150,000,000 or less.

For years 2007 through 2011, the administrative fee loss is determined by *subtracting from* the dollar amount of administrative fees collected in the county in tax year 1999, the dollar amount of administrative fees collected in the county in the current calendar year.

On or before each of the days prescribed for the settlements of property tax replacement payments in the years 2002 through 2011, the county treasurer shall deduct one-half of the amount apportioned to each school district, joint vocational school district, and local taxing unit from the portions of revenue payable to them. Also, on or before each of the days prescribed for the settlements of property tax replacement payments in the years 2002 through 2011, the county auditor shall cause an amount to be deposited equal to an amount equal to one-half of the amount of administrative fee loss in the same funds as if allowed as administrative fees. After payment of the administrative fee losses through August 10, 2011, all such payments end.

Example for Years 2002 to 2006
Assume the tax commissioner certifies to the county auditor the sum of the fixed-rate levy loss and fixed-sum levy loss is $5,000,000 and total taxes collected by the county in 1999 were $100,000,000.

> Administrative fee loss is $5,000,000 x 1.1159% = $55,795, split between the County Treasurer and the County Auditor ($27,897.50 each).

Property Tax Replacement Payments
As previously discussed, 37% of the kWh tax is to be collected at the state level for distribution to school districts and other local governments for property tax replacement funds. The Department of Education shall pay to each school district their share of school district property tax replacement funds. The Department of Education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications from the tax commissioner.

The county treasurer shall distribute amounts paid from the tax commissioner to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. Amounts distributed in excess shall be credited to the general fund of the local taxing unit that receives them. To distribute these payments, Counties should establish an undivided agency fund to record and distribute these monies. (Note: No Auditor of State permission is required to establish this fund, just a resolution by the Commissioners.)

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[6]"Fixed-rate levy loss" is determined by the tax commissioner for each school district, joint vocational school district, and local taxing unit. A fixed-rate levy is defined as any tax levied on property other than a fixed-sum levy.

[7] "Fixed-sum levy loss" is determined by the tax commissioner for each school district, joint vocational school district, and local taxing unit. A fixed-sum levy is defined as a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, including school district emergency levies.

School Districts and other Governments shall use the following receipt codes to receipt property tax replacement monies into their proper fund (not all entities have a uniform chart of accounts, therefore, use the code that your government has established that most closely resembles these listed below):

Entity Type	**Receipt Code**	**Receipt Description**
School District	3190	Other Unrestricted Grants in Aid
Library	221	Unrestricted Grants in Aid
Township	539	Other State Receipts
Villages	290	Other State Shared Taxes and Permits

Governmental Aggregation
Senate Bill 3 allows certain political subdivisions to act as aggregators (in essence, purchasing agents) for groups of consumers within their jurisdictions. Specifically, it authorizes the legislative authority of a municipal corporation through the adoption of an ordinance, or the board of township trustees of a township or the board of county commissioners of a county through the adoption of a resolution, to aggregate, on or after the starting date of competitive retail electric service, the retail electric loads centers[8] located respectively, within the municipal corporation, township, or unincorporated area of the county, except to the extent such aggregation is otherwise prohibited by the Certified Territories Law or other Ohio law.

A governmental aggregator is **not** a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction.[9] A governmental aggregator must be subject to supervision and regulation by the Public Utilities Commission of Ohio (PUCO) only to the extent of any **competitive** retail electric service it provides.

Exemptions to the kWh tax
The law exempts the federal government, end users that enrich uranium, and "qualified end users"[10] from paying the kilowatt-hour tax.

Effective Date
The kWh tax is first applicable to electricity distributed by such company beginning with the measurement period that includes May 1, 2001 and is due on or before the 20th of the month following usage (i.e. the first payment was due June 20, 2001) to the State.

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[8]"Electric load center" has the same meaning as in the Certified Territories Law: all electric consuming facilities of any type of character owned, occupied, controlled or used by a person at a single location, which facilities have been, are, or will be connected to and served at a metered point of delivery and to which electric service has been, is, or will be rendered

[9] We interpret this to mean that a Governmental Aggregator is **not** considered an electric distribution company (they are just a purchasing agent), therefore, they are **not** required to pay the kWh tax.

[10]"Qualified end user" means an end user of electricity that uses more than three million kilowatt hours of electricity at one manufacturing location in this state for a calendar day for use in a qualifying manufacturing process. Qualifying manufacturing process means the performance of an electrochemical reaction in which electrons from direct current electricity remain a part of the product being manufactured.

Other Considerations

- Distribution utilities are eventually required to remit the tax monthly via electronic fund transfer, unless the state treasurer agrees to allow an exception
- Corporate franchise tax will be imposed on for-profit electric companies effective January 1, 2002
- For-profit electric companies and combined companies are subject to municipal income taxes beginning January 1, 2002
- The gross receipts tax on electric companies has been eliminated
- Sales of electricity will continue to be exempt from the sales and use tax, but changes the exemption to reflect a wider variety of sales of electricity-related personal property and services that qualify for the exemption
- Even if a municipal electric system has no sales outside of your community's boundaries, you are still required to file a monthly report

Audit Considerations

The 2001 AOS Ohio Compliance Supplement (Section ~~7-43~~) has been updated to summarize the major requirements of this bulletin and the suggested audit procedures associated with those requirements.

Now included in OCS step 1-27.

Questions

Questions regarding the implementation of this Bulletin may be directed to the Accounting and Auditing Support Division of the Auditor of State's Office at (800) 282-0370.

Date: February 13, 2002
Bulletin 2002-002

AUDITOR OF STATE BULLETIN

TO:

MAIN BRANCH LIBRARY CLERK-TREASURERS
EDUCATIONAL SERVICE CENTERS - FINANCE OFFICERS
EDUCATIONAL SERVICE CENTERS - BOARDS OF EDUCATION
COMMUNITY SCHOOLS
CITY AUDITORS/FINANCE DIRECTORS/TREASURERS
CITY LAW DIRECTORS/SOLICITORS/ATTORNEYS
CITY BOARDS OF HEALTH
VILLAGE CLERK-TREASURERS/FINANCE DIRECTORS
TOWNSHIP TRUSTEES
SCHOOL DISTRICT TREASURERS
COUNCIL OF SCHOOLS/EDUCATION RELATED
JOINT VOCATIONAL SCHOOL DISTRICT TREASURERS
BOARDS OF EDUCATION
CITY MAYORS/CITY MANAGERS
VILLAGE MAYORS
VILLAGE ADMINISTRATORS
VILLAGE LAW DIRECTORS/SOLICITORS/ATTORNEYS
TOWNSHIP CLERKS
TOWNSHIP ADMINISTRATORS
COUNTY AUDITORS
COUNTY FAMILY & CHILDREN FIRST COUNCILS
COUNTY TREASURERS
COUNTY COMMISSIONERS
COUNTY ADAMH SERVICES BOARDS
COUNTY BOARDS OF HEALTH
PARK DISTRICTS
COUNTY & INDEPENDENT FAIRS
COUNTY ADMINISTRATORS
PUBLIC MEDICAL COLLEGES
PUBLIC TECHNICAL COLLEGES
COLLEGE FOUNDATIONS
TRANSIT AUTHORITY BOARDS
PORT AUTHORITIES
FIRE & AMBULANCE DISTRICTS
WATERSHED CONSERVANCY DISTRICTS
SPECIAL DISTRICTS
ECONOMIC DEVELOPMENT & PLANNING AGENCIES
COMMUNITY IMPROVEMENT CORPORATIONS
PUBLIC UNIVERSITY FISCAL OFFICERS
PUBLIC COMMUNITY COLLEGE FISCAL OFFICERS
METROPOLITAN HOUSING AUTHORITIES
AIRPORT AUTHORITIES
SOIL & WATER CONSERVATION DISTRICTS
WATER & SEWER DISTRICTS

Date: February 13, 2002
Bulletin 2002-002

AUDITOR OF STATE BULLETIN

TO: CEMETERIES
COUNCILS OF GOVERNMENT
HOSPITALS
VETERANS ORGANIZATIONS
COMMUNITY DEVELOPMENT CORPORATIONS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: DEMUTUALIZATION OF INSURANCE COMPANIES

The Prudential Insurance Company and Anthem Blue Cross and Blue Shield Insurance Company have recently completed plans to convert from private mutual insurance companies to publicly traded insurance companies (a process known as "demutualization"). Generally, policyholders of mutual insurance companies are considered "members" of the mutual insurance company and are entitled to vote on organizational matters such as the election of officers. As a result of these demutualizations, eligible members of each company will receive cash or shares of the companies' new publicly traded common stock in exchange for their membership interests in the former mutual insurance companies. Those eligible members who receive stock will become stockholders of the new public insurance companies.

Members of each company should have already received information regarding their rights as policyholders or eligible members as it relates to the two companies' respective conversions to publicly traded companies. The purpose of this Bulletin is to provide guidance to public bodies regarding accounting and compliance issues related to the distribution of stock and/or cash received by the public body as a result of these conversions.

It is important to note that as a result of the demutualization process, some public body employees may receive stock and/or cash directly from the insurance companies. This is a result of the employee being deemed as having ownership rights as a member of the mutual insurance company under the mutual insurance company's plan of conversion. Therefore, an employee who has received stock and/or cash directly from the insurance company is being compensated in exchange for his or her deemed membership interest in the mutual insurance company. As such, it would appear that those employees receiving cash or stock directly should retain the cash or stock regardless of the public employee's and employer's respective contributions to the employee's premium in any group policy covering the employee.

In some instances, the party eligible for the payment of cash or stock would be the public body itself. If a public body received stock pursuant to a mutual insurance company's

plan of conversation, management should be advised that 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." That being said, Article VIII, Section 6 of the Constitution provides an exemption which allows public bodies to purchase insurance from mutual insurance companies. Therefore, because any such Prudential or Anthem stock initially received by a public body because of the companies' demutualization can be said to have been derived from the public body's constitutionally permissible purchase of insurance from a mutual insurance company, the Auditor of State will not cite nor issue a Finding for Recovery against a public body that has received stock in this way. However, because of the constitutional prohibition on public bodies being stockholders in public corporations, the Auditor of State's recommendation is that each public body receiving stock should sell the stock at a reasonably prompt and beneficial time at the discretion of the public body.

Public bodies that receive cash directly from Prudential or Anthem or as a result of the sale of their stock may deposit and record it at their discretion. The Auditor of State does not consider such monies to be a "rebate," which would require it to be recorded in the funds from which the insurance premiums were paid. Nor do we consider it "interest earned on public money," which in most cases would require it to be recorded in the general fund. Therefore, our recommendation is that in a public meeting, the legislative body or governing board of each public office should determine the fund into which the cash will be recorded and that decision should be reflected in the minutes of that meeting.

Questions regarding this Bulletin may be directed to the Legal Division of the Auditor of State's Office at 614-752-8683 or 1-800-282-0370.

Date: May 28, 2002
Bulletin 2002-004

AUDITOR OF STATE BULLETIN

TO: CITY AUDITORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS
COUNTY ENGINEERS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PUBLIC WORKS COMMISSIONS INFRASTRUCTURE PROJECT ACCOUNTING (ISSUE 2 MONEY)

The purpose of this advisory bulletin is to inform you of the accounting treatment for infrastructure projects funded through the Ohio Public Works Commission (OPWC). This bulletin updates and combines the guidance provided in prior bulletins on State Issue 2 grants (MAS Bulletin 89-17) and the retainage on contracts (MAS Bulletin 89-11).

A - Establishment of Fund(s)

All local governments participating in Issue 2 Funds (single or multi-project grant) must, for each project awarded, establish a capital projects fund to account for both the Issue 2 monies and local matching funds. It is not necessary to obtain authorization from the Auditor of State to establish the fund(s) because the authority exists under Section 5705.09 of the Ohio Revised Code. The purpose of the fund is to account for the related revenues and expenditures to the extent the local government has received benefit from the project.

The appropriate fund numbers are:

County	Assigned by County
City	Assigned by City
Township	14
Township UAN	4401-4499
Village	D1
Village UAN	4901-4499

B - Local Government Matching Requirement

The local governments matching requirement may be satisfied with note or bond proceeds, loans, other grants designated for the same purpose, monies available from other funds of the local government, or labor, materials and equipment that will be contributed to the project by the local government.

In a case where monies available from other funds (i.e., General Fund) will be used to meet matching requirements, the local government shall transfer these monies, providing statutory authority exists for the transfer of the monies, to the capital projects fund. If the authority does not exist for the transfer of monies to the capital projects fund, (i.e., gas

tax, motor vehicle registration fees, street construction, road and bridge funds) then the local governments shall appropriate and expend its matching requirement directly from the other fund if lawfully permitted. It is the local government's responsibility to establish the appropriate account codes to segregate these expenditures from the other expenditures of the fund. Segregation of these expenditures is essential in demonstrating compliance with the matching requirement.

In a case where the local government has approval to contribute labor, materials and equipment, or engineering costs to meet matching requirements, all efforts should be made to record the costs in the project fund. This situation may require interfund billings.

C - Certificate of Estimated Resources and Appropriations

The local government shall include in its official or amended certificate of estimated resources the amount of Issue 2 monies anticipated to be received into the project fund during the fiscal year, along with its matching requirements, if appropriate. The fund appropriations should include the amount necessary to meet the obligations to be incurred during the fiscal year. If the project is not expected to be completed in the current year, the remainder of the project must be appropriated immediately in the subsequent year(s).

In situations when the grant or loan will be received after the expenditures have been incurred, it is possible that the local government will have appropriated an amount in one fiscal year that is in excess of the amount reflected as available on the amended certificate of estimated resources. This situation will not constitute a noncompliance citation during an audit. This approach is only acceptable when the eventual receipt of the resources to pay for the full amount of the contract is certain, such as when the money will be coming from the State or Federal government based on an approved grant.

D - Recording of Issue 2 Monies

The OPWC will make payments to the contractor(s) for its share based on invoices submitted by the fiscal officer or to the local government as a reimbursement. For payments made to the contractor, the State will notify the fiscal officer of the amount disbursed. Upon receipt of this notice, each local government shall record a receipt and expenditure in the capital projects fund equal to the amount disbursed by the OPWC.

E - Multi-Project Grants

In situations where one local government agrees to act as fiscal agent for a multi-project grant, the fiscal agent should establish an agency fund for the collection of participating subdivisions' matching shares, and the subsequent payments to the contractors, if the

agreement between the subdivisions calls for the collection of matching shares. The project manager, chief fiscal officer and chief executive officer designated in the grant agreement are responsible for maintaining a complete set of records to account for the complete project, including notification to each participating subdivision of revenues and expenditures it should post to its own capital projects fund, and the basis of any proration used. In order to accomplish this, it will be necessary to obtain either engineer or contractor cooperation to determine which subdivision(s) benefit from each invoice, and the respective amounts.

F - Accounting for Project Receipts and Expenditures Accurately

Each local government participating in a multi-project grant (one grant awarded to a group of local governments) needs to be able to identify the project activity related to their own government. Unless this information is provided to the local government by the project manager, fiscal officer or other appropriate parties, the accounting records will not accurately reflect the local government's portion of the project. It will also be necessary for each participating local government to receive this information on a timely basis. Receiving information on a timely basis will enable the local government to record the activity in the proper accounting period and will facilitate the preparation of accurate financial reports.

G - Retainage Requirements

Section 153.13 of the Revised Code establishes that for contracts of $15,000 or greater, the amount of the retainage is to be withheld from the first 50 percent of the payments made. When the invoice which would put the project at or over 50 percent completed is processed, the total contracted retainage amount which has been retained (8 percent from the first 50 percent of payments) should be placed in escrow (in a separate bank account or otherwise in conjunction with the provisions of Section 153.63 of the Revised Code).

Please note that in regard to the fund to be used, the capital projects fund can and should account for payments and continue to hold the retainage. There is no need for a separate fund. Rather, in the case of complying with Section 153.63 of the Revised Code, the emphasis should be in meeting the escrow requirements.

As an example, if we assume the capital projects fund is being used and a $100,000 contract exists with a 4 percent retainage, (8 percent of the payments made up to the 50 percent point as described in Sections 153.12 and 153.14 of the Revised Code), one could track through the escrow as follows:

AUDITOR OF STATE BULLETIN

Invoice Received and Payment Requested		Amount Paid	Amount Retained No Escrow	Amount in Escrow
#1	$20,000	$18,400	$1,600	-0-
2	20,000	18,400	1,600	-0-
3*	20,000	19,200	-0-	$4,000
4	20,000	20,000	-0-	4,000
5	20,000	20,000	-0-	4,000

* At the third payment, the 50 percent completed point was reached and the $3,200 retained from the first 2 payments, plus the $800 from the third payment was placed in escrow. Please note that the total retainage of $4,000 was reached from the first 50 percent of the payments. At the 50 percent completed point, all retainage was placed in escrow.

Turning our attention to the fund involved, we find the following:

Invoice Received and Payment Requested		Fund Balance	Balance in Regular Bank Account	Balance in Escrow Account
Beginning Balance		$100,000	$100,000	-0-
#1	$20,000	81,600	81,600	-0-
2	20,000	63,200	63,200	-0-
3**	20,000	44,000	40,000	$4,000
4	20,000	24,000	20,000	4,000
5	20,000	4,000	-0-	4,000
Escrow is paid		-0-	-0-	-0-

** The 50 percent completed point is reached. The governmental entity should obtain a monthly bank statement or other monthly accounting of the escrowed money from the escrow agent to use as a reconciliation item in the monthly cash reconciliation.

Date: August 26, 2002
Bulletin 2002-005

AUDITOR OF STATE BULLETIN

TO: CITY AUDITORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PUBLIC WORKS COMMISSION CLEAN OHIO GRANTS

Amended Substitute House Bill No. 3, effective July 26, 2001, created the Clean Ohio Program (the Program). The Program provides grants for "Brownfield" environmental clean up projects and "Greenfield" open space and conservation preservation projects.

The Clean Ohio program has four sub-programs providing grants for specific purposes. Information concerning the State agency responsible for the grants, the purpose, applications, and the approval process can be obtained from the following:

Clean Ohio Fund grants now consist of the following 4 grants, based on the website. Information for all 4 grants are at https://development.ohio.gov/CleanOhio/.

- Brownfield Revitalization
- Farmland Preservation
- Green Space Conservation
- Recreation Trails

~~Clean Ohio Revitalization Grants, Ohio Department of Development~~
~~http://www.odod.state.oh.us/UD/CleanOhioFund.htm~~
~~Clean Ohio Conservation Grants, Ohio Public Works Commission~~
~~http://www.pwc.state.oh.us/clean_ohio.htm~~
~~Clean Ohio Agricultural Easement Grants, Ohio Department of Agriculture~~
~~http://www.state.oh.us/agr/CleanOhioFund/CleanOhioFundIndex.htm~~
~~Clean Ohio Trail Grants, Department of Natural Resources~~
~~http://www.dnr.state.oh.us/cleanohiofund/admin.htm~~

The brownfields and open space programs require significant involvement of the district public works integrating committees, natural resource assistance councils and the Ohio Public Works Commission (OPWC). As part of that program, the OPWC will administer the Clean Ohio Conservation Program, which provides grants for qualified land acquisitions and site improvements.

Establishment of Funds

All local governments participating in any Clean Ohio grants must, for each project awarded, establish a capital projects fund to account for both the grant monies and local matching funds. It is not necessary to obtain authorization from the Auditor of State to establish the fund(s) because the authority exists under Section 5705.09 of the Ohio Revised Code. The purpose of the fund is to account for the related revenues and expenditures of the grant program.

Date: August 26, 2002
Bulletin 2002-005

AUDITOR OF STATE BULLETIN

The appropriate fund numbers are:		
	County	Assigned by County
	City	Assigned by City
	Township	21
	Township UAN	4901-4999
	Village	D3
	Village UAN	4901-4999

Local Government Matching Requirement

The local government's matching requirement may be satisfied with note or bond proceeds, loans, other grants designated for the same purpose, monies available from other funds of the local, government, or labor, materials and equipment that will be provided to the project by the local government. The local match may also include in-kind contributions or the donation of equipment, land, easements, labor, or materials necessary to complete the project.

In a case where monies available from other funds (i.e., general fund) will be used to meet matching requirements, the local government shall transfer these monies, providing statutory authority exists for the transfer of the monies, to the capital projects fund. If the statutory authority does not exist for the transfer of monies to the capital projects fund, then the local government shall appropriate and expend its matching requirement directly from the other fund if lawfully permitted. It is the local government's responsibility to establish the appropriate account codes to segregate these expenditures from the other expenditures of the fund. Segregation of these expenditures is essential in demonstrating compliance with the matching requirement.

In a case where the local government has approval to contribute labor, materials and equipment, or engineering costs to meet matching requirements, all efforts should be made to record the costs in the project fund. Labor costs should be supported by time sheets or other appropriate documentation. This situation may require interfund billings.

Certificate of Estimated Resources and Appropriations

The local government shall include in its official or amended certificate of estimated resources the amount of Clean Ohio grant anticipated to be received into the project fund during the fiscal year along with its matching requirements, if appropriate. The fund appropriations should include the amount necessary to meet the obligations to be incurred during the fiscal year. If the project is not expected to be completed in the current year, the remainder of the project must be appropriated immediately in the subsequent year.

In situations when the grant will be received after the expenditures have been incurred, it is possible that the local government will have appropriated an amount in one fiscal year that is in excess of the amount reflected as available on the amended certificate of estimated resources. This situation will not constitute a noncompliance citation during an audit. This approach is only acceptable when the eventual receipt of the resources to pay for the full amount of the contract is certain, such as when the money will be coming from the State or Federal government based on an approved grant.

Recording of Clean Ohio Grants

OPWC will make payments to the contractor(s) for its share based on invoices submitted by the fiscal officer or to the local government as a reimbursement. For payments made to the contractor, the OPWC will notify the fiscal officer of the amount disbursed. Upon receipt of this notice, each local government shall record a receipt and expenditure to the capital projects fund equal to the amount disbursed by the OPWC.

In the case of a land purchase, OPWC may disburse payment to a title agent based upon an escrow agreement or as a reimbursement to the local government. Grant proceeds disbursed to a title agent shall record a receipt and expenditure to the capital projects fund equal to the amount disbursed by the OPWC.

Clean Ohio Program - Long Term Ownership and Control Requirements

Land, or rights in land acquired with funds from the Clean Ohio Conservation grants shall remain in the ownership and control of the grant recipient in perpetuity. Any future transfer of ownership and control must be approved in writing by the Director of the Ohio Public Works Commission (the Director). Grant recipients shall, at the time of transfer of land or rights to land to the grantee, record deed restrictions or conservation easements which are commensurate with the nature and purpose of the lands, or interests in lands, acquired as stated in the respective project application. Proposed deed restrictions or conservation easements shall be submitted to the Director for written approval prior to the disbursement of Clean Ohio Conservation Fund monies for the proposed acquisition.

Recorded restrictions and conservation easements shall be perpetual and may not be modified or extinguished without the advance written approval of the Director. A copy of the recorded deed restrictions, or conservation easement, shall be provided to the Director within thirty (30) days of their recording. Failure to record deed restrictions or conservation easements approved by the Director within the 30-day time period stated above shall require the grantee to make immediate repayment of all Clean Ohio Conservation Fund monies disbursed for the project. Any future modification or breach of the recorded deed restrictions or conservation easements that occur without the

advanced written approval of the Director shall result in the imposition of a penalty on the entity responsible for the breach equal to twice the Clean Ohio Conservation Fund monies disbursed for the project, plus compounded interest at six percent (6%) per annum or twice the appraised value of the property or easement, whichever is greater.

In accepting a grant from the Clean Ohio Conservation Fund, the grantee agrees to the conditions stated above as well as the full enforcement authority of the Director of the Ohio Public Works Commission.

Retainage Requirements

Section 153.13 of the Revised Code establishes that for contracts of $15,000 or greater, the amount of the retainage is to be withheld from the first 50 percent of the payments made. When the invoice which would put the project at or over 50 percent completed is processed, the total contracted retainage amount which has been retained (8 percent from the first 50 percent of payments) should be placed in escrow (in a separate bank account or otherwise in conjunction with the provisions of Section 153.63 of the Revised Code.) Local governments may be required to meet the escrow requirements from the matching funds for the project.

Please note that in regard to the fund to be used, the capital projects fund can and should account for payments and continue to hold the retainage. There is no need for a separate fund. Rather, in the case of complying with Section 153.63 of the Revised Code, the emphasis should be in meeting the escrow requirements.

As an example, if we assume the capital projects fund is being used and a $100,000 contract exists with a 4 percent retainage, (8 percent of the payments made up to the 50 percent point as described in Sections 153.12 and 153.14 of the Revised Code), one could track through the escrow as follows:

Invoice Received and Payment Requested		Amount Paid	Amount Retained No Escrow	Amount in Escrow
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3*	20,000	19,200	-0-	$4,000
4	20,000	20,000	-0-	4,000
5	20,000	20,000	-0-	4,000

* At the third payment, the 50 percent completed point was reached and the $3,200 retained from the first 2 payments, plus the $800 from the third payment was placed in escrow. Please note that the total retainage of $4,000 was reached from the first 50 percent of the payments. At the 50 percent completed point, all retainage was placed in escrow.

Date: August 26, 2002
Bulletin 2002-005

AUDITOR OF STATE BULLETIN

Turning our attention to the fund involved, we find the following:

Invoice Received and Payment Requested		Fund Balance	Balance in Regular Bank Account	Balance in Escrow Account
Beginning Balance		$100,000	$100,000	-0-
#1	$20,000	81,600	81,600	-0-
2	20,000	63,200	63,200	-0-
3**	20,000	44,000	40,000	$4,000
4	20,000	24,000	20,000	4,000
5	20,000	4,000	-0-	4,000
Escrow is paid		-0-	-0-	-0-

** The 50 percent completed point is reached. The governmental entity should obtain a monthly bank statement or other monthly accounting of the escrowed money from the escrow agent to use as a reconciliation item in the monthly cash reconciliation.

Questions concerning this bulletin may be addressed to the Local Government Services Division at ~~(800) 345-2519~~. (614)466-4717

Date: October 29, 2002
Bulletin 2002-009

AUDITOR OF STATE BULLETIN

TO: ALL HEADS OF STATE AGENCIES

SUBJECT: REPRESENTATION LETTERS - SECTION 117.17, REVISED CODE

In accordance with Ohio Rev. Code Section 117.17, prior to leaving office, the head of a state agency shall prepare, in the form designated by the auditor of state, a letter of representation for his or her successor in office. This letter shall contain an inventory of all properties, supplies, furniture, credits, moneys, and any other items belonging to the state, which it is the duty of such official to turn over to his or her successor in office or pay into the state treasury. A copy of this representation letter shall be delivered to the successor in office, the governor, the auditor of state, and the attorney general.

The prescribed format for the letter of representation is attached to this bulletin. Departing heads of state agencies should include a listing of all properties of the agency, not just those assigned directly to the official with the letter of representation. The inventory listing should include: name of item, agency tag number, serial number, location, dollar amount, and all other pertinent information that would assist in identifying and locating the item. Additionally, any credit cards, cash, or cash equivalents should be separately disclosed and remitted to the successor.

If you should have any questions regarding this bulletin please contact the ~~Legal Division at (614) 752-8683~~. State Region at (614)728-8549

SAMPLE LETTER OF REPRESENTATION

Dear Successor:

In accordance with the requirements of Section 117.17, Revised Code, I have prepared this Letter of Representation setting forth an inventory of all "properties, supplies, furniture, credits, and moneys, and any other thing belonging to the state" which it is my responsibility to turn over to you or to pay into the state treasury.

Attached is a listing of all such properties which are currently my responsibility as the **(TITLE)** of the **(DEPARTMENT NAME)** as of **(DATE)**, my last day in office.

An originally executed copy of this letter, with the attachment, is being delivered to the governor, the auditor of state, and the attorney general. An additional copy is being retained for my personal records.

Please notify me if any discrepancies are noted in this inventory.

Sincerely,

(NAME)

Information about this letter, including a link for submitting it online, are at: http://www.ohioauditor.gov/resources/AOSNotificatons.html

See related guidance in Bulletins 2014-02 and 2014-03,, regarding alcohol sales at agricultural society fairs and at other public events.

Bulletin 2003-005

Auditor of State Bulletin

Date Issued: October 20, 2003

TO: **All County Auditors, Commissioners & Prosecutors**
All City Auditors, Finance Directors, Council Members & Treasurers
All Independent Public Accountants
All School District Treasurers
All Township Clerks & Trustees
All Village Fiscal Officers, Council Members & Clerks

SUBJECT: Expenditure of Public Funds/Proper "Public Purpose"

As you may know, government entities may not make expenditures of public monies unless they are for a valid public purpose. This Bulletin addresses the requirements necessary to ensure that an entity's expenditure of public funds is for a proper public purpose.

Ohio Attorney General Opinion 82-006, which is attached for reference, addresses the expenditure of funds for public purposes. This opinion, citing the Ohio Supreme Court case of State ex rel. McClure v. Hagerman, 155 Ohio St. 320 (1951), provides guidance as to what may be construed as a public purpose. There are two criteria that demonstrate whether an expenditure is for a public purpose. First, the expenditure is required for the general good of all inhabitants. As stated in McClure, "[g]enerally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants …." Id. at 325. Second, the primary objective of the expenditure is to further a public purpose, even if an incidental private end is advanced.

The determination of what constitutes a public purpose is primarily a legislative function. As such, the decision to expend public funds "… must be made in accordance with the procedural formalities governing the exercise of legislative power. **Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only**." 1982 Op. Atty. Gen. No. 82-006 (emphasis added). With due deference to local control generally, the Auditor of State's Office will only question expenditures where the legislative determination of a public purpose is manifestly arbitrary and incorrect. The Auditor of State's Office does not view the expenditure of public funds for alcoholic beverages as a proper public purpose and will issue findings for recovery for such expenditures as manifestly arbitrary and incorrect.

Thus, to avoid an audit finding, the Auditor of State's Office will require that expenditures of public funds for coffee, meals, refreshments, or other amenities have prior authorization by the appropriate legislative authority. If such prior authorization has been given, the Auditor of State's Office will not question the expenditure in the course of an audit unless there is a clear indication that the legislative determination is arbitrary and incorrect. **Please note, however, the use of public funds to purchase alcohol <u>will</u> be considered arbitrary and incorrect and <u>will</u> be cited by the Auditor of State's Office.**

Also note, for offices that do not have a legislative approval process for these types of expenditures, these principles still apply.

Questions concerning this bulletin should be address to the Legal Division of the State Auditor's Office at (800) 282-0370.

Sincerely,

Betty Montgomery
Ohio Auditor of State

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF OHIO

OPINION No. 82-006

1982 Ohio AG LEXIS 99

March 1, 1982

Syllabus:

1. Coffee, meals, refreshments and other amenities are fringe benefits which may properly be provided by units of local government to their employees as a form of compensation, if authorized by the officer or body having the power to fix the compensation of such employees.

2. Municipal funds may be expended to purchase coffee, means, refreshments or other amenities for municipal officers, employees or other persons, if the legislative body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable.

3. The governing body of a political subdivision other than a municipality may expend public funds to purchase coffee, meals, refreshments and other amenities for its officers or employees or other persons if it determines that such expenditures are necessary to perform a function or to exercise a power expressly conferred upon it by statute or necessarily implied therefrom and if its determination is not manifestly arbitrary or unreasonable.

4. Since the decision to expend public funds to purchase coffee, meals, refreshments or other amenities is a legislative decision, [*2] it must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only.

Request by: William J. Brown, Attorney General

Opinion:
The Honorable Thomas E. Ferguson
Auditor of State
88 East Broad Street, 5th Floor
Columbus, Ohio 43215

I have before me your request to clarify two opinions of this office which address the expenditure of public funds by local political subdivisions for the purchase of meals, refreshments, and other amenities for public officers and employees. Your specific questions are as follows:

1. Is the analysis set forth in 1981 Op. Att'y Gen. No. 81-052 applicable to units of local government other than boards of education, thus enabling them to provide coffee, meals, refreshments, and other amenities to their employees as fringe benefits?

2. Does the analysis set forth in 1975 Op. Att'y Gen. No. 75-008 correctly require that under no circumstances may public moneys be expended by a political subdivision for meals, refreshments or other amenities for officers and employees of the political subdivision or third parties, in the local area?

3. If the answer to the preceding question is in the negative, what criteria should be applied by the Bureau [*3] of Inspection and Supervision of Public Offices in determining, as required by R.C. 117.10, whether "public money has been illegally expended" as a result of such expenditures?

You have indicated that your first question arises as a result of paragraph three of the syllabus of 1981 Op. Att'y Gen. No. 81-052, which states: "A board of education, pursuant to its general power to compensate its teaching employees, may expend public funds to provide its teaching employees with free lunches at the school cafeteria or with cash payments for early retirement or for longevity of tenure with the employing school district." Your specific question is, therefore, whether employees of the various public employers throughout the state may be given fringe benefits, such as coffee, meals, and refreshments, as part of their compensation.

My conclusion in Op. No. 81-052 that a board of education could expend public funds to provide its teaching employees with certain amenities or benefits rested in large part on the Ohio Supreme Court's decision in Ebert v. Stark County Board of Mental Retardation, 63 Ohio St. 2d 31, 406 N.E.2d 1098 (1980). As I noted in Op. No. 81-052, the Ebert court [*4] spoke in general, unlimited terms and the rationale in Ebert, accordingly, "necessarily extends to any creature of statute and establishes the proposition that the power to employ includes the power to fix any fringe benefit — absent constricting statutory authority." n1 Op. No. 81-0552 at 2-202.

n1 I recently noted, however, one exception to this general rule. In 1981 Op. Att'y Gen. No. 81-056 I opined that Ebert does not extend to state agencies since the General Assembly has not given individual state agencies the power to determine the compensation payable to their employees.

Of course, because a municipality is not a creature of statute, the analysis in Ebert does not apply to the fixing of compensation by a municipal corporation for its employees. Because compensation is a matter of substantive local self-government, a municipal ordinance concerning compensation of municipal employees would supersede any statutory provision in conflict with the ordinance. See Northern Ohio Patrolmen's Benevolent Association v. City of Parma, 61 Ohio St. 2d 375, 402 N.E.2d 519 (1980). The rationale set forth in Op.

No. 81-052 does not, therefore, apply to municipalities [*5] as a restriction on their authority to compensate municipal employees.

In order to answer your first question, it is necessary to determine whether meals, refreshments and other amenities n2 (including coffee) are fringe benefits which may properly be provided to employees of local government units as "compensation," provided, of course, that there are no constricting statutory provisions. As I noted in 1977 Op. Att'y Gen. No. 77-090, there is no precise statutory or common law definition of the term "fringe benefit" as it relates to public employees. I indicated therein, however, that a fringe benefit is commonly understood to mean something that is provided at the expense of the employer and is intended to directly benefit the employee so as to induce him to continue his current employment. Madden v. Bower, 20 Ohio St. 2d 135, 254 N.E.2d 357 (1969). I am unable to be any more precise at this time. I do not, however, believe this imprecision is problematic with respect to your inquiry, since I am confident that there is little room for doubt in concluding that the illustrative amenities set forth in your request are properly viewed as fringe benefits when provided by an [*6] employer as an inducement to his employees to continue their current employment. See, e.g., 1981 Op. Att'y Gen. No. 81-082 (dental and eye care insurance as a fringe benefit); 1981 Op. Att'y Gen. No. 81-052 (free lunches and cash payments for early retirement or for longevity of tenure as fringe benefits).

n2 After receiving your request, I contacted your office to seek clarification of what might be encompassed by the term "other amenities." It is my understanding that this term was intended as a reference to such non-food items as flowers for sick employees or relatives of employees, token retirement gifts, or meritorious service awards.

In response to your first inquiry, it is, therefore, my opinion that coffee, meals, refreshments and other amenities are fringe benefits which may properly be provided by units of local government to their employees as a form of compensation, provided that there is no overriding statutory restriction to the contrary. Of course, in order for such benefits to be properly provided, they must be properly authorized by the local officer or body having the power to fix the compensation for such employees, and should be uniformly granted [*7] to all similarly situated employees. See Berenguer v. Dunlavey, 352 F. Supp. 444 (D. Delaware 1972), vacated as moot, 414 U.S. 895 (1973); Op. No. 81-082.

Your second question seeks clarification of the circumstances under which a political subdivision may expend public moneys for meals, refreshments and other amenities for its officers, employees or third parties. Since I have already discussed in response to your first question the legal basis for providing such amenities to employees as a form of compensation, I shall assume for the purposes of this inquiry that these amenities are not intended to be provided to the employees of the political subdivision as a form of compensation.

You specifically seek clarification of Op. No. 75-008, where I concluded that a board of education may not expend public funds for lunches or dinners for persons attending a local meeting of such board. Only two factual assumptions were evident in that opinion. First, the meals were being provided to members of the board of education, who are public officers. Second, the meetings in question took place in the home destrict and did not involve travel away from headquarters. Assuming [*8] no additional facts, I still am of the opinion that the provision of meals in such situation would not constitute a valid public purpose. This is not the same as saying, however, that under no circumstances may public moneys be expended by a political subdivision for meals, refreshments or other amenities, in the local area.

You have asked what criteria should, then, be applied in determining, as required by R.C. 117.10, whether "public money has been illegally expended" as a result of such expenditures. The relevant inquiry is whether the expenditure in question constitutes a "public purpose." Unfortunately, the problem of deciding what constitutes a public purpose has always been difficult. The courts have attempted no absolute judicial definition of a public purpose but have left each case to be determined by its own peculiar circumstances. The Ohio Supreme Court has, however, offered the following general guidelines to be applied in determining whether a particular expenditure constitutes a public purpose. State ex rel. McClure v. Hagerman, 155 Ohio St. 320, 98 N.E.2d 835 (1951). First, the test is whether the expenditure is requird for the general good of all the [*9] inhabitants. "Generally, a public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants...." Id. at 325, 98 N.E.2d at 838. Second, if the primary objective is to further a public purpose, it is immaterial that, incidentally, private ends may be advanced. Third, the determination of what constitutes a public purpose is primarily a legislative function, and a legislative determination of a public purpose will not be disturbed except where such determination is palpable and manifestly arbitrary and incorrect. Asked to consider whether a municipal corporation could expend its funds to pay the cost of membership in an association of municipal finance officers, the McClure court summarized the proper inquiry as follows:

"There is no universal test for distinguishing between a purpose which is public or municipal and, therefore, a proper object of municipal expenditure and one which is private and, therefore, an improper object to which to devote public money. Each case must be decided in the light of existing conditions, with respect to the objects sought to be accomplished, [*10] the degree and manner in which that object affects the public welfare, and the nature and character of the thing to be done; but the court will give weight to a legislative determination of what is a municipal purpose, as well as widespread opinion and general practice which regard as city purposes some things which may not be such by absolute necessity, or on a narrow interpretation of constitutional provisions. * * * It has been laid down as a general rule that the question whether the performance of an act or the accomplishment of a

specific purpose constitutes a 'public purpose' for which municipal funds may be lawfully disbursed rests in the judgment of the municipal authorities, and the courts will not assume to substitute their judgment for that of the authorities unless the latter's exercise of judgment or discretion is shown to have been unquestionably abused."

McClure, 155 Ohio St. at 325-26, 98 N.E.2d at 838 (quoting 64 C.J.S. 334, 335, § 1835b). Thus, the provision of meals, refreshments or other amenities, although invariably conferring a private benefit, may be a permissible expenditure of public funds, if the legislative authority has determined that the expenditure [*11] is necessary to further a public purpose. Confronted with a situation in which such a legislative determination has been made, you may not find that public money has been illegally expended, within the meaning of R.C. 117.10, unless you have reason to believe that such determination is "'palpable and manifestly arbitrary and incorrect.'" McClure, 155 Ohio St. at 325, 98 N.E.2d at 838 (quoting 37 Am. Jur. 734-35, § 120). On the other hand, if you have reason to believe that the legislative body has abused its discretion in determining that a public purpose has been served by the expenditures in question, then it is your duty to make a finding in accordance with R.C. 117.10 so that a court may review the matter.

Reference is made throughout the foregoing analysis to the question conferred upon "legislative bodies" to determine what constitutes a public purpose. This terminology is understandable because the public purpose cases have traditionally been concerned with the power of municipalities to undertake certain functions. I understand your present inquiry to be broader, however, and to include counties, townships, school districts and other political subdivisions. It is, [*12] therefore, necessary to determine whether the term "legislative bodies" can encompass the governing bodies in political subdivisions other than municipalities.

In its strictest sense the term "legislative bodies" refers to the traditional bodies empowered to make laws, such as Congress, state legislatures and municipal councils. Courts have recognized, however, that the governing bodies of other political subdivisions are at times called upon to exercise legislative powers or functions. For example, in Stein v. Erie County Commissioners, 16 Ohio Misc. 155, 241 N.E.2d 300 (C.P. Erie County 1968), the court held that, when creating a regional airport authority under the provisions of R.C. Chapter 308, the county commissioners were acting in a legislative capacity. Similarly, in Morgan County Commission v. Powell, 292 Ala. 300, 305, 293 So.2d 830, 834 (1974), the court held that, "[i]n the aspect of appropriating money from the county treasury, a county governing body must be deemed as exercising a legislative power." Similarly, the adoption of zoning ordinances and maps is traditionally regarded as a "legislative act." See, e.g., County of Pasco v. J. Dico, Inc., [*13] 343 So.2d 83 (Fla. App. 1977); Board of Supervisors v. Lerner, 221 Va. 30, 267 S.E.2d 100 (1980). One court has found a board of education to be a "legislative body." Andeel v. Woods, 174 Kan. 556,

258 P.2d 285 (1953). In Allstate Insurance Co. v. Matropolitan Sewerage Commission, 80 Wis.2d 10, 258 N.E.2d 148 (1977), the court held that the decisions of a matropolitan sewerage commission with respect to planning and designing sewer systems were "legislative acts" for which the commission was immune from tort liability. As these cases suggest, legislative power can mean something broader than the usual power to enact laws. A governmental body may be deemed to exercise a legislative function when it promulgates policies, standards, regulations or rules of general application and prospective operation and when the body's decision is appropriately based on considerations similar to those a legislature could have invoked. Board of Supervisors v. Department of Revenue, 263 N.W.2d 227, 239 (Iowa 1978).

Relying on this broader definition of what constitutes a legislative function, I find no reason to restrict the public purpose analysis, illustrated by McClure, [*14] to municipalities only. It is my opinion that a decision properly made by the appropriate governing body of a county, township, school district or other political subdivision to expend public funds to provide coffee, meals, refreshments or other amenities is to be subjected to the same analysis. This does not mean, however, that other political subdivisions are on exactly the same footing a municipalities. Political subdivisions other than municipalities are creatures of statute and have only such powers as are expressly granted or necessarily implied. See, e.g., State ex rel. Shriver v. Board of Commissioners, 148 Ohio St. 277, 74 N.E.2d 248 (1947) (board of county commissioners, as creature of statute, has only powers expressly conferred by statute). Consequently, such political subdivisions may make "legislative" decisions only with respect to matters in which they have been authorized to act by the General Assembly. The provision of meals, refreshments and other amenities by such political subdivisions is permissible, therefore, only if the governing body has reasonably determined that the provision of such amenities is necessary to the performance of a function [*15] or duty or to the exercise of a power expressly conferred by statute or necessarily implied therefrom. See 1930 Op. Att'y Gen. No. 2170, vol. II, p. 1241.

Additionally, since the decision to expend public funds for meals, refreshments or other amenities for persons other than employees is in a sense a legislative decision, it must be made in accordance with the procedural formalities governing the exercise of legislative power. Specifically, the decision must be memorialized by a duty enacted ordinance or resolution and may have prospective effect only. See Department of Revenue, 263 N.W.2d at 239. See, e.g., McClure, supra.

In specific response to your questions, it is, therefore, my opinion, and you are advised, that:

1. Coffee, meals, refreshments and other amenities are fringe benefits which may properly be provided by units of local government to their employees as a form of compensation, if authorized by the officer or body having the power to fix the compensation of such employees.

2. Municipal funds may be expended to purchase coffee, meals, refreshments or other amenities for municipal officers, employees or other persons, if the legislative [*16] body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable.

3. The governing body of a political subdivision other than a municipality may expend public funds to purchase coffee, meals, refreshments and other amenities for its officers or employees or other persons if it determines that such expenditures are necessary to perform a function or to exercise a power expressly conferred upon it by statute or necessarily implied therefrom and if its determination is not manifestly arbitrary or unreasonable.

4. Since the decision to expend public funds to purchase coffee, meals, refreshments or other amenities is a legislative decision, it must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only.

Bulletin 2003-009

Auditor of State Bulletin

Date Issued: December 23, 2003

TO: All State Agencies, Boards, and Commissions
All State Universities and Colleges
All Statewide Elected Officials
Ohio Supreme Court
All County Auditors, Commissioners, and Prosecutors
All City Auditors, Finance Directors, Council Members, and Treasurers
All Independent Public Accountants
All School District Treasurers
All Township Clerks and Trustees
All Village Fiscal Officers, Council Members, and Clerks
All Public Libraries

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: Unresolved Findings for Recovery Database (ORC Section 9.24)

House Bill 95, the State of Ohio Operating Budget for fiscal years 2004-05, enacted a new provision of law (ORC section 9.24), effective January 1, 2004, that prohibits a state agency or political subdivision from awarding a contract for goods, services or construction, which is paid for in whole or in part with state funds, to a person against whom a finding for recovery has been issued by the Auditor of State, if the finding for recovery is unresolved. The purpose of this bulletin is to describe the provisions of this new law and to explain the database established by the Auditor of State pursuant to this law.

Explanation of Findings for Recovery

ORC 9.24 defines a finding for recovery as "a determination issued by the Auditor of State, contained in a report the Auditor of State gives to the Attorney General pursuant to section 117.28 of the Revised Code, that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated."

Pursuant to ORC 117.28, when a finding for recovery is issued in an audit report, the legal counsel for the public office is authorized to collect the public money due within 120 days after receiving the audit report. In addition, the Auditor of State is required to notify the Attorney General of every finding for recovery. If, after 120 days, the legal counsel for the public office has not initiated legal action to recover the public money due, the Attorney General is authorized to bring such an action.

ORC 9.24 (B) provides that a finding for recovery is unresolved unless any 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 whom 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 (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 (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.

Auditor of State Database

ORC 9.24 (D) requires the Auditor of State to establish and maintain a database which is accessible to the public and which lists all persons[1] against whom an unresolved finding for recovery has been issued, dating back to January 1, 2001. The database is also to list the amount of money identified in the finding for recovery. The statute requires the Auditor of State to update the database on a quarterly basis to reflect findings for recovery that have been resolved. Both the initial database and all updates reflecting findings that have been resolved will be based upon written reports that the Attorney General is to provide to the Auditor of State. All new findings for recovery will be added to the database immediately upon being issued by the Auditor of State.

Although the statute only requires that the database be updated to reflect resolved findings on a quarterly basis, the Auditor of State and the Attorney General have agreed to a process to allow for more frequent updates. The Attorney General will notify the Auditor of State in writing upon the resolution of a finding, and the Auditor's database will be updated upon receipt of the certification from the Attorney General.

The database required by ORC 9.24 will be accessible via the Auditor of State's web site, at www.auditor.state.oh.us. The web site will contain a search function, allowing anybody to search for a specific person by name to determine if that person has unresolved findings for recovery issued since January 1, 2001. If the person does have a finding for recovery, the web site will provide additional information about the person and the finding, as well as a link to the audit report in which the finding was issued.

If a public office is searching the database in order to comply with the provisions of ORC 9.24, the web site will allow the public office to perform a certification search. A certification search allows users to be more specific about the persons for whom they are searching and at the end of the process, if none of the search results match the person to whom the public office plans to award a contract, it can print off a certification page documenting this fact for audit purposes.

In addition to searches by name, the database will allow users to obtain a complete listing of all unresolved findings issued since 2001. The database will also contain, for informational purposes only, all persons against whom findings for recovery have been issued since January 1, 2001, even if those findings have been resolved. The database will allow users to easily distinguish between resolved and unresolved findings for recovery. **Please note that only those persons who have unresolved findings for recovery are prohibited from entering into public contracts.**

[1] NOTE: For purposes of this draft, the use of "person" is defined an individual, corporation, business trust, estate, trust, partnership, and association. See ORC 1.59.

Responsibilities of a Public Office

ORC 9.24 (D) provides that before awarding a contract for goods, services or construction, which is paid for in whole or in part with state funds, a state agency or political subdivision is required to verify that the person does not appear in the database established by the Auditor of State.

As mentioned above, the Auditor of State and the Attorney General have agreed to a process that will keep the database as accurate and timely as possible. Nonetheless, it is still possible that a person may have resolved the finding, but the finding continues to be listed in the Auditor of State's database as unresolved. If this occurs, the public office should consult with its legal counsel about how to proceed.

Upon performing a certification search of the Auditor of State's database, if the person is not listed as having an unresolved finding for recovery, the public office may proceed with the contract. Again, when the database shows no unresolved findings for recovery for the person, the web site will offer users the option of printing out a certification page that can be maintained to demonstrate compliance with ORC 9.24 (E).

Responsibilities of a Person With an Unresolved Finding for Recovery

Any person who has an unresolved finding for recovery is prohibited from receiving a contract for goods, services, or construction, paid for in whole or in part with state funds. As described earlier in this bulletin, ORC 9.24 (B) provides the ways in which a finding for recovery may be resolved. **A finding for recovery will not be removed from the Auditor of State's database until written notification of the resolution is received from the Attorney General. Consequently, any person who wishes to resolve a finding for recovery should contact the Attorney General's Office at (614) 644-1234.**

We are well aware that many questions have arisen with this new legislation and that new questions will likely continue to arise. Because many of these questions involve legal interpretations of statute, the Auditor of State's Office is not able to answer all of these questions at this time. We will continue to work closely with the Attorney General's Office to seek clarification on these legal issues. In the meantime, state agencies and political subdivisions should work closely with their own legal counsel to determine how to comply with the requirements of ORC 9.24.

Again, the database of unresolved findings for recovery will be available on the Auditor of State's web site on January 1, 2004, at www.auditor.state.oh.us. Questions concerning this bulletin or the Auditor of State's database should be directed to the Auditor's Office at 1-800-282-0370. Questions regarding the resolution of findings for recovery should be directed to the Attorney General's Office at (614) 644-1234.

Betty Montgomery
Ohio Auditor of State

Bulletin 2004-001

Auditor of State Bulletin

Date Issued: **February 19, 2004**

TO: School District and ESC Treasurers
Library Clerks\Treasurers
College and University Fiscal Officers
Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **Auditor of State's Position on GASB 39 – Determining "Significance" and "Safe Harbor"**

Many Ohio governments, but especially colleges and universities, libraries, and public school districts, have affiliated fund-raising organizations, such as college and university foundations, band booster organizations, friends of the library etc., that typically are separate tax exempt entities. GASB Statement No. 39 requires governments to evaluate whether these affiliated fund-raising organizations should be reported as "component units" of their related governments[1]. GASB 39 requires such inclusion if the affiliated organization meets all 3 of the following criteria:

- The economic resources received or held by the separate organization are entirely or almost entirely for the direct benefit of the…government, its component units, or its constituents.

- The…government…is entitled to, or has the ability to…access a majority of the economic resources received or held by the separate organization.

- The economic resources received or held by an individual organization that the specific…government…is entitled to, or has the ability to otherwise access, are **significant** to that…government.

Since GASB 39 does not define "significant" for purposes of this last criterion, this Bulletin is being issued to describe the Auditor of State's position

[1] This bulletin does not apply to public libraries that issue their financial statements using the ~~cash basis of accounting~~.

AOS regulatory accounting basis. However, this bulletin does apply to public libraries that issue their financial statements using an other comprehensive accounting basis (OCBOA). (See ***Required Components of Financial Statements*** **in Bulletin 2015-07** for a summary of the difference between the OCBOA vs. AOS regulatory accounting bases.)

on significance and to create a "safe harbor" for Ohio Entities subject to this statement. In other words, if the affiliated organization's resources are not considered "significant," then they need not report the organization as a "component unit" of the related government and therefore, not subject to audit under GASB 39. The Auditor of State's position on "significance" of resources in audits of governments that have affiliated fund-raising organizations described in GASB Statement No. 39 is as follows:

- The Auditor of State will consider the affiliated organization as significant for purposes of GASB 39 if its revenues\net assets per its Form 990 as filed with the Internal Revenue Service exceed 5% of the primary government's total all funds' or activities' revenues, or net assets.

Entities whose audits are performed by an Independent Public Accountant (IPA) would be expected to adopt this Bulletin's safe harbor provisions or may develop their own professional criteria for determining "significance." Entities that choose to develop their own criteria should document their methodology and follow appropriate accounting principles. Furthermore, if such entities use guidance deviating from this Bulletin, the entities and their IPAs should be prepared to justify such departures[2].

For entities audited by the Auditor of State, our office will consider approving "significance" waivers for entities. Requests to consider such waivers should be directed to your Auditor of State audit team who will consult with the Auditor of State's Accounting & Auditing Support group.

In determining the fund-raising organization's total revenues for purposes of this "safe harbor" calculation, the Auditor of State will allow the government to use one of two methods:

- Use the affiliated organization's revenues\net assets from its IRS Form 990 that corresponds with the government's fiscal year, or
- Use a 5-year running average of revenues\net assets of the government's affiliated organization, which will help alleviate fund-raising spikes from affecting the calculation.

In order to use this "safe harbor" when determining significance, the government must not have been in fiscal watch or emergency pursuant to Chapters 118 or 3316, Ohio Rev. Code or a state of fiscal watch pursuant to Ohio Rev. Code §§ 3345.72 - .77 during any of the 5 annual periods ending with the current fiscal year under audit.

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[2] The determination to include or not include the affiliated organization(s) for external financial reporting purposes under GASB 39 does not affect requirements, if any, established by the Auditor of State to audit the affiliated organizations.

GASB 39 is effective for financial statements for periods beginning after June 15, 2003. For public school districts, and colleges and universities with a June 30 fiscal year end, the effective date is for their fiscal year beginning July 1, 2003; for libraries, the effective date is the fiscal year beginning January 1, 2004.

Questions about this Bulletin may be directed to Accounting & Auditing Support, 1-800- 282-0370.

Betty Montgomery
Ohio Auditor of State

Bulletin 2004-002

Auditor of State Bulletin

Date Issued: February 25, 2004

TO: All County Auditors, Commissioners & Prosecutors
All Independent Public Accountants

FROM: Betty Montgomery
Ohio Auditor of State

SUBJECT: Expenditure of Public Funds for a Proper Public Purpose

This Bulletin is issued as a clarification to Auditor of State Bulletin 2003-005. Specifically, our Office has received numerous inquires from county officials regarding the intended meaning of the term "legislative authority" as used in Bulletin 2003-005. The Bulletin stated in pertinent part, "Thus, to avoid an audit finding, the Auditor of State will require that expenditures of public funds for coffee, meals, refreshments, or other amenities have prior authorization by the appropriate legislative authority." There appears to be a great deal of confusion surrounding the meaning of "appropriate legislative authority." It is our hope that this Bulletin will serve to address this concern.

Auditor of State Bulletin 2003-005 referred to 1982 Ohio Attorney General Opinion No. 82-006, which was intended to address the expenditure of funds by local political subdivisions for the purchase of meals, refreshments and other amenities (flowers, token retirement gifts, or meritorious service awards). Specifically, a prior Auditor of State sought clarification whether such expenditures are supported by a "public purpose." The Ohio Attorney General indicated in Opinion 82-006 that because the determination of what constitutes a proper public purpose is primarily a legislative function, such decisions "… must be made in accordance with the procedural formalities governing the exercise of legislative power. Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only."

In addition, Attorney General Op. No. 82-006 addressed how several terms are to be viewed, including the terms "legislative bodies" and "legislative power." The Attorney General opined that:

> In its strictest sense the term "legislative bodies" refers to the traditional bodies empowered to make laws, such as Congress, state legislatures and municipal councils. Courts have recognized … that the governing bodies of other political subdivisions are at times called upon to exercise legislative powers or functions… legislative power can mean something broader than the usual

> power to enact laws. A governmental body may be deemed to exercise a legislative function when it promulgates policies, standards, regulations or rules of general application and prospective operation and when the body's decision is appropriately based on considerations similar to those a legislature could have invoked….

More recently, Ohio Attorney General Opinion No. 2003-029 addressed the issue of whether particular county departments may approve their own travel policies. This opinion was issued in response to a request by the Athens County prosecutor on behalf of the county auditor. The Attorney General concluded that that county auditor does not have the authority to establish a travel policy for offices other than his or her own. The Attorney General stated, "Rather, each county officer, board, or department may establish a travel policy for the agency's officers and employees. A board or appropriate office or department head has the discretion, subject to R.C. 325.20, to set the specific terms of the policy, including the amount of expenses that may be incurred, and the nature of the items that may be reimbursed." And furthermore, "Any travel policy must, of course, comply with the limitation that public funds may be spent only for a public purpose." Atty. Gen. Op. No. 2003-029.

In accordance with the above Attorney General Opinions, an independently elected official has the power to establish his or her own travel policy. Expenditures made pursuant to that policy, and made otherwise in accordance with law, are at the discretion of the independently elected official.

We find it proper to extend this reasoning in general to the types of expenditures (meals, refreshments and other amenities) contemplated by AOS Bulletin 2003-005. However, these officials (county prosecutors, judges, auditors, sheriffs, engineers, coroners, clerks of county courts, treasurer, recorder) should have written policies that are in place **prior** to making expenditures to justify that the expenditures are for a proper public purpose. The effective date of the policy and any amendments to the policy should be clearly indicated.

With regard to departments and agencies, for which the Board of County Commissioners is the proper authority to establish policies and approve expenditures, these entities should obtain the prior approval of the county commissioners through a resolution demonstrating a proper public purpose before making the types of expenditures contemplated by AOS Bulletin 2003-005. We also consider that each county should determine the manner in which approval for entities under the control of the county commissioners is to be made. For example, a county may decide that a general resolution for all such entities is appropriate, or that the policy of each county entity, department or agency under its control must be approved individually. This may also include the adoption of a resolution which permits an entire category or categories of future expenditures for amenities.

We will audit in accordance with the written policies that are established by each of the independently elected county officials and by the board of county commissioners for itself and the entities under its control. However, policies should be writing and in effect **prior** to the making of an expenditure. The effective date of the original policy and the date of any amendment of the policy should be clearly indicated.

As always, we encourage you to consult with your county prosecutor for guidance on any specific concerns that you may have involving the matter of expenditures for a proper public purpose.

Questions concerning this bulletin should be addressed to the Legal Division of the State Auditor's Office at (800) 282-0370.

Betty Montgomery
Ohio Auditor of State

Bulletin 2004-003

Auditor of State Bulletin

Date Issued: **April 5, 2004**

TO: All County Auditors
All County Commissioners
All County Sheriffs
All Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **Concealed Handgun License Issuance Expense Fund**

Effective April 8, 2004, county sheriffs will begin to issue licenses to those who wish to carry a concealed handgun pursuant to Amended Substitute House Bill 12 of the 125th General Assembly. Applicants must pay a fee for the issuance or renewal of a license, for the issuance of a duplicate license, or for the issuance of a temporary emergency license. In consultation with the Ohio Attorney General, the Ohio Peace Officer Training Commission (Commission) will establish the amount of the licensing fee.

There are several steps in the application process, including both a criminal records check and a competency check. A portion of the licensing fee will be used to pay for costs incurred throughout the application process. Again, in consultation with the Attorney General, the Commission will determine how the fee will be apportioned. Administrative rules regarding the fee and its distribution have been proposed but are not yet final. Questions concerning the fees and their distribution may be directed to the Commission at (800) 346-7682.

Add "Or Renewal"

According to provisions prescribed in Ohio Revised Code (O.R.C.) Section 311.42, each county is required to create a Concealed Handgun License Issuance Expense Fund. Sheriffs are required to deposit all fees collected for the issuance of a license into this Fund. The money will then be distributed in accordance with the guidelines established by the Commission. With approval from county commissioners, sheriffs may spend any county portion of the fees to pay any costs incurred in issuing the license. For example, O.R.C. § 311.42 allows sheriffs to charge personnel expenses and the costs of any handgun safety education program they offer to the Fund.

Add "Or ammunition/Firearms to be used by the Sheriff and Sheriff's Employees."

The creation of the Concealed Handgun License Issuance Expense Fund is clearly authorized by statute. Thus, the Auditor of State's permission is not necessary to establish such a fund. However, we recommend that the Fund be established as a special revenue fund. Questions concerning this Bulletin should be directed to the Local Government Services Section of the Auditor of State's Office at (800) 345-2519.

Betty Montgomery
Ohio Auditor of State

Bulletin 2004-005

Auditor of State Bulletin

Date Issued: **June 15, 2004**

TO: **Community Based Correctional Facilities**
Governing Boards of Community Based Correctional Facilities
County Commissioners
County Auditors
Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **Auditing and Reporting for Community Based Correctional Facilities**

Synopsis

1. House Bill 510, which the Legislature passed on December 6, 2002 and which took effect on March 31, 2003, requires the Auditor of State (or contracting Independent Public Accountants (IPAs)) [1] to audit Community Based Correctional Facilities (CBCFs).
2. Pursuant to HB 510, the Auditor of State's Office (AOS) will audit and issue cash-basis reports for each of the 18 CBCFs on a biennial basis.
3. AOS's initial audit will cover fiscal years ended June 30, 2002, 2003, and 2004. For fiscal year 2002, the Auditor of State will only audit the Ohio Department of Rehabilitation and Corrections' (ODRC) funding (called "501-501" funding). For fiscal years 2003 and 2004, however, AOS will audit all CBCF cash activity, including 501-501 funding, grants, and amounts the CBCFs hold for offenders (offender funds).
4. If a CBCF disburses more than ~~$300,000~~ of direct or pass-through Federal assistance in a fiscal year, Federal regulations require an annual audit, including an audit of Federal programs, rather than a biennial audit. (This threshold increases to $~~500,000~~ effective for CBCF fiscal years ending ~~June 30, 2004~~ and thereafter.)
5. Under Ohio Rev. Code § 117.13(C), the Auditor of State will bill CBCFs for the cost of these audits.

$750,000

See audit requirements now in Title 2: Grants and Agreements PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

[1] With permission from the Auditor of State, CBCFs may contract with an IPA to audit their financial statements pursuant to HB 510. Therefore, auditing requirements set fourth in this Bulletin apply to both AOS and contracting IPAs (both of which are referred to as "auditors" herein).

The accounting and auditing guidance in this Bulletin still apply. However, changes to RC 2301.51 -- 2301.58 have amended CBCF governance and certain other requirements. See the most recent ORC for current guidance.

Description of CBCFs

CBCFs originally developed in response to prison over-crowding and currently function as minimum-security alternatives to State prison for non-violent felony offenders. Ohio law governing CBCFs is enumerated in Ohio Rev. Code sections 2301.51 through 2301.58. HB 510 partially amends these code sections and this Bulletin addresses those changes.

With the approval of the director of ODRC, a county with a population of over 200,000 can create a single-county CBCF. With similar approval, two or more adjoining counties with an aggregate population of over 200,000 may create a multi-county CBCF.

~~For single-county CBCFs, the presiding judge of a county's court of common pleas chairs the judicial corrections board (i.e., governing body). This judge also designates up to 11 common pleas judges from that county to serve on the board. For multi-county CBCFs, the presiding common pleas judge from the largest county chairs the judicial corrections board. Each participating county has at least one judge[2] on the board.~~

A judicial corrections board may hire a for-profit or nonprofit entity to operate a CBCF. While CBCFs receive significant non Federal 501-501 funding from ODRC, they may also receive funding from other sources to operate other programs.

Auditing

2301.56(D)

HB 510 amends Ohio Rev. Code § 2301.56(~~E~~) by requiring the Auditor of State (or contracting IPAs) to audit each CBCF within two years after March 31, 2003. In the past, ODRC audited 501-501 funding for each CBCF. This funding has been audited through fiscal year[3] 2001. Furthermore, ODRC required CBCFs' offender funds to be audited separately by IPAs. Counties do not hold offender funds for CBCFs; rather, each CBCF holds separate checking accounts (and occasionally investments) for offender funds. Audits of offender funds have been completed through June 30, 2002. Therefore, to prevent any duplication, AOS (or contracting IPAs) will audit and report only 501-501 money for fiscal year 2002, yet AOS (or contracting IPAs) will audit all CBCF cash activity thereafter.

The initial audit period will include fiscal years 2002, 2003, and 2004. After the initial three-year audit, they will occur on a biennial basis. Also, audits of CBCFs will follow *Government Auditing Standards*.

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[2] ~~In Opinion 2003-09, the Ohio Supreme Court Board of Commissioners on Grievances and Discipline concluded it is not proper for common pleas judges to serve on judicial corrections boards. However, the Board advised judges should continue to serve, pending review of this Opinion by the Ohio Attorney General and possible statutory changes.~~

OAG Opinion 2004-03 suggested legislation to address this. Legislation such as HB 162 from the 126th G.A. amended RC 2301.51 -- .58.

[3] CBCFs have adopted fiscal years ending June 30.

Most CBCFs use a county auditor to receive, disburse, and hold 501-501 and grant funds. Auditors (AOS or IPA) should read the county's most recent financial audit and consider whether scope restrictions or reportable conditions affect the timing, nature, or extent of CBCF audit procedures. Since all CBCF transactions that a county auditor records are subject to the county's financial statement audit, auditors (AOS or IPA) need not obtain a service organization[4] report for those counties.

The Auditor of State has developed an audit program and an example audit report format for CBCFs. Contracting IPAs may obtain this material by contacting AOS's central office at (800) 282-0370 or their Auditor of State regional office.

Where a for-profit or nonprofit entity operates a CBCF, the audit approach will be the same: AOS (or contracting IPAs) will audit the CBCF's financial statements and the underlying receipts, disbursements and cash/investment balances of all public money, including 501-501 funding, other grants, and offender funds as described above.

HB 510 also permits the Auditor of State to initiate performance audits, which are designed to improve program operations and to facilitate decision making by parties responsible for oversight or corrective action. HB 510 enables ODRC or a judicial corrections board to request these types of audits as well. Performance audits may address a variety of objectives, including assessing program effectiveness and results; economy and efficiency; internal control; compliance with legal or other requirements; and providing prospective analyses, guidance, or summary information.

Accounting Records

AOS has provided the CBCFs with a worksheet listing the records typically required for an audit. A copy of that worksheet may be obtained by contacting AOS's central office at (800) 282-0370 or from AOS's various regional offices.

Many of the accounting records necessary for the audit (vouchers, payroll records, offender account records, etc.) may be located at the CBCF. Even CBCFs using counties for fiscal agents maintain their own accounting systems and checking accounts for offender funds. Where a county auditor is the fiscal agent, however, auditors (AOS or IPA) may need accounting information from the county auditor, such as the county's CBCF fund accounting information.

Accounting records for the four CBCFs that do <u>not</u> use a county auditor as their fiscal agent may be found at each of the respective agencies, which are as follows:

- CROSSWAEH CBCF, Seneca County
- Summit County CBCF
- Mahoning County CBCF
- Community Correctional Center, Butler County

[4] Service organizations process accounting transactions on behalf of another entity. In this instance, a county is processing certain receipt and disbursement transactions on behalf of a CBCF.

Technically referred to as "an other comprehensive accounting basis prescribed by DRC."

Basis of Accounting

CBCFs follow cash basis accounting. Under this basis, the CBCF should record a cash receipt when cash is received, and a disbursement when a check or cash is released.

The fund cash balances as of each June 30 must agree to the sum of cash held by the county auditor (if applicable) plus the reconciled balances of cash accounts each CBCF maintains.

The last line of the financial statements should also list the total of outstanding encumbrances/purchase orders for the 501-501 fund. Under the cash-basis of accounting, CBCFs should not report these encumbrances as current period disbursements in the audited statements.

CBCF Financial Statements

ODRC, with assistance from the Auditor of State, recently revised the financial statement format CBCFs should use for their audits and for annual reporting. An example of that report is included in the aforementioned audit program and example audit report. Previously, CBCFs reported only 501-501 funding to ODRC. The unaudited annual report and the audited statements now include additional columns to report receipts and disbursements from all sources, including offender funds. Since this is a new reporting requirement, auditors (AOS or IPA) should consider the completeness of non-ODRC receipts and disbursements and their proper classification as a source of inherent risk when planning these audits.

HB 510 also requires CBCFs to submit unaudited financial information to the Auditor of State on a quarterly basis. CBCFs can satisfy this requirement by submitting the CBCF 501-501 Program Quarterly Financial Report to ODRC's Bureau of Community Sanctions. The Bureau will then forward these reports to the Auditor of State.

Audit Costs

HB 510 defines CBCFs as public offices under Ohio Rev. Code § 117.01. Ohio Rev. Code § 117.13(C) permits AOS to charge audit costs, including direct wages and an overhead charge, to public offices. Therefore, the Auditor of State will bill CBCFs for audit costs incurred. It is the Auditor of State's policy to provide an estimated fee to our clients prior to commencing audit services. AOS will notify a CBCF if it becomes apparent that the actual cost will exceed the estimate and will explain why the increase is needed. Several factors influence audit costs, including some within the control of the CBCF. For example, the condition and accessibility of financial records is a controllable factor that can impact audit costs.

Revised: See link to Uniform Guidance on first page of this bulletin.

Federal Single Audits

Federal ~~Office of Management and Budget (OMB) Circular A-133~~ requires annual audits for any government spending more than ~~$300,000~~[5] in Federal assistance in a fiscal year. Note that Federal assistance maintains its identity as Federal money regardless of whether the money passed through an intermediate government or nonprofit organization. CBCFs should therefore assure they understand whether any grants they receive represent Federal or Federal pass-through dollars. If the total Federal funding a CBCF disbursed during its fiscal year exceeds $300,000, then the Auditor of State must follow Federal audit guidelines set forth in Circular A-133. This Circular requires auditors (AOS or IPA) to focus additional audit effort on larger Federal assistance programs, and importantly, requires an annual audit rather than the biennial audit H.B. 510 prescribes. In other words, the Federal annual audit requirement supersedes the State requirement. It is a CBCF's responsibility to summarize the Federal assistance it disburses each fiscal year, and to contact its Auditor of State regional office if it requires an A-133 audit. Note that State appropriation (501-501funding) is not Federal pass-through assistance.

Using IPAs

Under Ohio law, CBCFs cannot hire IPAs for their audit without permission of the Auditor of State. For fiscal years 2001 and 2002, ODRC required CBCFs to hire IPAs to audit their offender funds. HB 510 implies that CBCFs must cancel these audit contracts for periods the Auditor of State will audit. CBCFs that want to contract with an IPA to audit their financial statements must first seek permission from the Auditor of State and then follow the audit contracting procedures prescribed by Ohio Rev. Code sections 115.56 and 117.11(C) and Ohio Administrative Code Section 117-03. To audit under these laws, IPAs must register with the Auditor of State by filing an *Audit Firm Data Sheet.* These forms are available from any Auditor of State regional office, or from our website, www.auditor.state.oh.us.

Questions Regarding this Bulletin

If you have any questions, or if we can help in any way, please contact our Accounting & Auditing Support Section, at (800) 282-0370.

$750,000

Betty Montgomery
Ohio Auditor of State

[5] ~~This threshold will increase to $500,000 for fiscal years ending June 30, 2004 and thereafter~~.

Bulletin 2004-006

Auditor of State Bulletin

Date Issued: June 15, 2004

TO: **All State Agencies, Boards, and Commissions**
All State Universities and Colleges
All Statewide Elected Officials
Ohio Supreme Court
All County Elected Officials
All County, Common Pleas, and Municipal Court Judges
Mayors' Court Clerks
All City Auditors, Finance Directors, Council Members, and Treasurers
All Independent Public Accountants
All School District Treasurers and Superintendents
All Township Clerks and Trustees
All Village Fiscal Officers, Council Members, and Clerks
All Public Libraries

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: Unresolved Findings for Recovery Database (ORC Section 9.24)

Senate Bill 189 was recently enacted and contained a provision modifying an existing provision of law (ORC section 9.24), that prohibits a state agency or political subdivision from awarding a contract for goods, services, or construction, paid for in whole or in part with state funds, to a person with an unresolved finding for recovery issued by the Auditor of State.

Background

House Bill 95, the State of Ohio Operating Budget for fiscal years 2004-05, initially enacted ORC 9.24. On January 1, 2004, a database of unresolved findings for recovery was made available to the public via the Auditor of State's web site (www.auditor.state.oh.us). For more specific information about the original statute and the basic concepts of the findings for recovery database, please refer to Auditor of State Bulletin 2003-009.

From the time ORC 9.24 took effect, numerous legal and implementation questions were raised by state agencies and political subdivisions that were attempting to comply with the law. As a result of these questions, the Auditor of State took two

separate actions. First, legal guidance on a number of issues was requested of the Attorney General. These requests ultimately resulted in a single formal legal opinion ("AG Opinion 2004-014") issued by the Attorney General on April 15, 2004. This opinion may be obtained from the Auditor of State's web site or from the Attorney General's web site at www.ag.state.oh.us). Second, the Auditor requested that the Ohio General Assembly consider amending ORC 9.24 to clarify its intent with regard to several issues. An amendment was ultimately included in Senate Bill 189. This Bulletin discusses specific issues related to the Attorney General opinion and Senate Bill 189.

Definition of "contract"

AG Opinion 2004-014 addresses the meaning of the term "contract" as used in ORC 9.24:

> For purposes of R.C. 9.24, a contract is awarded when a written agreement is executed pursuant to a formal competitive contracting procedure that may include competitive bidding, requests for proposals, or invitations to bid. A purchase arrangement that does not involve competitive contracting procedures does not constitute the awarding of a contract and is not subject to R.C. 9.24.

Consequently, pursuant to this opinion, ORC 9.24 only applies to contracts which have been subjected to a competitive contracting process. This does not include transactions made via other means such as purchase orders, credit cards, debit cards, etc.

One question that has frequently been raised is the applicability of ORC 9.24 to purchases made off the state term schedule. The Ohio Department of Administrative Services (DAS) establishes a state term schedule of vendors with whom it has contracted to provide specific goods or services at negotiated prices. Under certain circumstances, state agencies and political subdivisions may make purchases off the state term schedule. Under such an arrangement, before placing a vendor on the state term schedule, DAS engages in a contracting process as described in AG Opinion 2004-014 and consequently, is required to comply with ORC 9.24. State agencies and political subdivisions that purchase off the state term schedule, however, do not engage in their own contracting processes and are not subject to the provisions or ORC 9.24.

In addition to the limitation described above, newly enacted 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 <u>or</u> meet the aggregating criteria described above.*

Senate Bill 189 also clarifies the following points in regard to the contracting process:

- The prohibition in ORC 9.24 applies to renewals of contracts which otherwise meet the criteria described above.
- The contract is considered to be awarded when it is entered into or executed, irrespective of whether the parties to the contract have exchanged any money.
- The provisions of ORC 9.24 do not apply to the awarding by a state agency or political subdivision of employment contracts. Please note that AG Opinion 2004-014 clarifies that independent contractor relationships, if they meet the other criteria for being a "contract," *are* subject to the provisions of ORC 9.24.

Definition of "state funds"

The prohibition against awarding contracts pursuant to ORC 9.24 is limited to contracts "paid for in whole or in part with state funds." AG Opinion 2004-014 explains that 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 Const. art. II, § 22 for expenditure by a state agency or political subdivision."

This opinion further advises that 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 ORC 9.24.

Finally, Senate Bill 189 provides that for the purposes of ORC 9.24, the term "state funds" does not include funds that the state receives from another source and passes through to a political subdivision, such as federal funds.

Definition of "political subdivision"

The requirements of ORC 9.24 apply to both state agencies and political subdivisions. Senate Bill 189 clarifies that the definition of "political subdivision" is the definition provided in ORC 9.82:

> "Political subdivision" means a county, city, village, township, park district, or school district.

Senate Bill 189 further states that the provisions of ORC 9.24 only apply if the political subdivision has received more than $50,000 of state money in the current fiscal year or the preceding fiscal year.

Definition of "person"

Again, ORC 9.24 prohibits awarding certain types of contracts to a person with an unresolved finding for recovery. It is important to understand that the statutory definition of "person," found in ORC 1.59, includes not only individuals**,** but also corporations**,**

business trusts, estates, trusts, partnerships, or associations. However, 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. Senate Bill 189 clarifies that the term "person" applies only to the person actually named in the finding for recovery.

Applicability to pre-2001 findings for recovery

Senate Bill 189 specifies that the prohibition against awarding contracts applies only to those persons with unresolved findings for recovery that were issued after January 1, 2001. In addition, aside from checking the Auditor of State's database, a state agency or political subdivision may obtain other proof that the person has no unresolved finding for recovery. However, because compliance with ORC 9.24 is ultimately the responsibility of the state agencies and political subdivisions, the Auditor of State's office recommends that they continue to check the database before awarding a contract that is subject to ORC 9.24.

Additional exclusions from ORC 9.24

In addition to the clarifications described throughout this Bulletin, Senate Bill 189 imposes several additional limitations upon the applicability of ORC 9.24:

Bonding companies, insurance companies, self-insurance pools, joint self-insurance pools, risk management programs, or joint risk management programs are exempt unless a court has entered a final judgment against the company and the judgment has not yet been satisfied. These entities will no longer appear in the Auditor of State's database until notification of a final judgment is received from the Attorney General.

Medicaid provider agreements (ORC Chapter 5111) or payments or provider agreements under disability assistance medical assistance (ORC Chapter 5115) are exempted. In addition, 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.

Auditor of State Database Updates

In addition to the statutory changes and clarifications provided in Senate Bill 189 and Attorney General Opinion 2004-014, the Auditor of State has made changes to the findings for recovery database since it was first unveiled on January 1, 2004 as a result of suggestions from users.

First, we have added a component to our web site allowing users to download the entire database into a comma delineated file, which can then be printed. Please note that the web site also contains a notation of when the database was last updated. This feature allows users, if they previously downloaded the database, to know whether that version is still up-to-date or whether they should download a more current version.

In addition, the web site allows users to perform a certified search for the purpose of compliance with ORC 9.24. If the person does not appear in the database, the user is given the option of printing a certification page that may be used to verify compliance with ORC 9.24. The certification page has been modified in two ways. First, the language was changed to more accurately reflect the purpose of the certification page and the manner in which it is to be used. Specifically, the certification page returns a list of possible matches, based on letter combinations from the search parameters that were entered. **Unless the name you searched for actually appears on the list of possible matches, that person is not included in the Auditor of State's database and is not prohibited by ORC 9.24 from being awarded a contract.** If the person's name does appear on this list of possible matches, the person does have an unresolved finding for recovery and is prohibited from receiving a contract (subject to the exceptions discussed throughout this Bulletin).

In addition to this change, we removed the sections of the certification page requiring the user's signature. An initialed copy of the certification page is sufficient to demonstrate compliance with ORC 9.24 for audit purposes. Please note that the law does not require state agencies and political subdivisions to use the certification page. The certification page was developed by the Auditor of State as a method for a state agency or political subdivision to document the fact that it has checked the database and found no matches. However, any documentation which sufficiently demonstrates compliance with ORC 9.24 will be acceptable for audit purposes.

In conclusion, please note that this Bulletin does not provide a comprehensive overview of ORC 9.24. Instead, it is meant as a supplement to Auditor of State Bulletin 2003-009. These bulletins – along with the findings for recovery database, the revised version of ORC 9.24, and Attorney General Opinion 2004-014 – may be accessed via the Auditor of State's web site at www.auditor.state.oh.us.

Questions concerning this Bulletin or the Auditor of State's database should be directed to the Auditor of State's Office at 1-800-282-0370. Questions regarding the resolution of findings for recovery or Attorney General Opinion 2004-014 should be directed to the Attorney General's Office at (614) 644-1234. Legal questions about compliance with ORC 9.24 should be directed to your legal counsel.

Betty Montgomery
Ohio Auditor of State

Bulletin 2004-008

Auditor of State Bulletin

Date Issued: **August 20, 2004**

TO: **Governmental Insurance Pools**
Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **Audits of Governmental Insurance Pools**

Ohio Rev. Code sections 9.833 (health insurance) and 2744.081 (liability insurance) permit local governments to form or join insurance pools to share the costs of managing risk with other governments. While the Auditor of State's Office (AOS) has been auditing some insurance pools, independent public accountants (IPAs) have been auditing others without audit contracts with AOS. Henceforth, all insurance pools are required to contract for independent audits through AOS, as authorized by Ohio Rev. Code §117.11(C).

The Auditor of State's Authority to Audit Insurance Pools

Ohio Rev. Code §117.10 requires AOS to audit public offices. An insurance pool as defined in both Ohio Rev. Code sections 9.833 and 2744.081 meets the definition of a public office since it is established as a separate legal entity to perform a public purpose or function of government and is exempt from all State and local taxes. Ohio Rev. Code §117.10 also authorizes AOS to audit local governmental insurance pools since they are "receiving public money for their use."

Contracting with Independent Public Accountants

As permitted by Ohio Rev. Code §117.11(C)(1), the Auditor of State has decided to competitively bid these audit contracts with IPAs. The *IPA Registration Process* and *IPA Contracting Process* portions of this Bulletin describe the administrative processes the Auditor of State uses to contract audits. Ohio Admin. Code Chapter 117-3 further describes the statutory IPA contracting requirements.

Transition

AOS is aware that some insurance pools have existing audit contracts with IPAs. These contracts will be honored until the end of their terms. After which, the Auditor of State will competitively bid all audits of insurance pools. Pools should submit a copy of

their current audit contracts[1] immediately to ~~AOS's Chief Auditor of Audit Administration at the following address:~~

http://
www.auditor.state.oh.us/
ipa/contracting.html

~~Auditor of State of Ohio~~
~~Attn: Robert Greenwalt,~~
~~88 East Broad Street~~
~~P.O. Box 1140~~
~~Columbus, Ohio 43216-1140~~

For those audits under existing contracts, AOS will require the pool to also submit a copy of the audited statements and any accompanying reports (e.g., management letters) to the above address.

IPA Registration Process

IPAs wishing to bid for audits of insurance pools must register with AOS by completing an *Audit Firm Data Sheet,*[2] available from any regional office and also posted to the AOS website, www.auditor.state.oh.us, under Organization, IPA Resources. The IPA should return the completed sheet to the attention of ~~Robert Greenwalt~~ at the address listed on the form. Firms that have previously filed an *Audit Firm Data Sheet* with the Auditor of State need not register again.

IPA Contracting Process

The Auditor of State has ~~eight~~ regional offices to serve local governments. Chief auditors will contact pools within their respective regions to discuss the IPA contracting process. The AOS website will also include notice that these audits are being bid. See ~~www.auditor.state.oh.us/ipa_bid_list/bid_list.doc~~ which lists basic information about the audit, client contact information, and the contract deadline.

Before the stated contract deadline, IPAs registered and in "good standing" with the Auditor of State may contact the individual identified on the request for proposal (RFP) as the pool's "RFP Contact," in the manner listed on the Bid List (e-mail, phone, mail), to express an interest in receiving the RFP.

After the AOS region and the insurance pool have worked together to select a reasonable number of qualified firms, the region will prepare an RFP and mail a copy to each selected IPA firm. However, the RFP must be submitted to at least three IPAs possessing the ability to meet the terms and conditions of the RFP. IPAs must then complete and submit a proposal that is responsive to the RFP requirements.

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[1] ~~If the Pool and the IPA use an engagement letter to serve as a binding contract, the pool should submit a signed copy of the engagement letter to Robert Greenwalt.~~

[2] ~~Since August, 2003, AOS has also required each firm to submit a *Statement of Policy and Procedure Regarding Auditor Independence Under Amendment 3,* documenting compliance with the new Government Auditing Standard's Independence Standard (Amendment No. 3).~~

Both the insurance pool and AOS regional personnel will evaluate and score each proposal. Scoring considers qualifications, price, and other factors. The region will forward a summary of all scoring sheets and copies of all bid proposals for review and approval to the Chief Deputy Auditor and the Chief Auditor of Audit Administration. While pools may participate in preliminarily selecting those IPAs that receive an RFP and in scoring the proposals, the final selection will be made by the Auditor of State. This will be done, of course, with sensitivity to insurance pool scoring. Once the successful bid is formally approved, AOS prepares a Memorandum of Agreement (MOA) with the insurance pool and the IPA. The contract becomes final when all three parties have signed the MOA, and work may begin under the timelines the RFP and proposal provide.

Audit contracts typically cover five fiscal years. These pools' current auditors will be eligible to participate in the bidding process.

Accounting Standards

OAC 117-2-03 now requires pools organized under RC 9.833, 167.01 or 2744.081 to follow GAAP.

While these insurance pools may be subject to the actuarial and other reporting requirements of Ohio Rev. Code sections 9.833 and 2744.081, there is ~~no~~ requirement in Ohio Admin. Code Section 117-2-03(B) for insurance pools to follow generally accepted accounting principles (GAAP). However, considering insurance pools must have accurate information regarding accrued liabilities (such as incurred but not reported claims) to set proper rates, the Auditor of State ~~encourages~~ insurance pools to follow GAAP. Additionally, because insurance pools meet the definition of "public corporations," those following GAAP are subject to accounting standards prescribed by the Governmental Accounting Standards Board (GASB).[3] Standards specific to insurance/risk management include GASB Statements Nos. 10 and 30 and GASB Interpretation No. 4. Those who prepare or audit an insurance pool's GAAP financial statements should also refer to other GASB pronouncements for applicability. The recent Government Accounting Standard No. 34 also applies to pools, which adds additional reporting requirements.

Auditing Standards

Pursuant to Ohio Admin. Code Section 117-2-05, IPAs auditing insurance pools must follow *Government Auditing Standards*. Information regarding these standards is accessible at www.gao.gov/govaud/ybk01.htm.

Evaluating Proposals

While IPAs must have an understanding of governmental accounting and auditing standards, a strong background in insurance industry auditing is critical. Therefore,

[3] See additional guidance for determining entities subject to GASB standards in Sections 1.01 and 1.02 of the American Institute of Certified Public Accountants publication *Audits of State and Local Governmental Entities* (GASB 34 Edition).

proposals should stress insurance industry audit experience. Similarly, a lack of insurance industry experience will adversely affect a proposal's evaluation.

First Steps

Insurance pools, including those AOS has audited in prior years, should contact their AOS regional office to express their interest in contracting with an IPA. Once their current audit contracts expire, insurance pools that continue to hire IPAs without contracting through the Auditor of State will be subject to a second audit, with the cost charged to the pool.

If you have any questions regarding this Bulletin, please contact ~~Robert Greenwalt, Chief Auditor of Audit Administration, at (800) 282-0370~~.

your regional AOS office, or (800)282-0370.

Betty Montgomery
Ohio Auditor of State

Bulletin 2004-010

Auditor of State Bulletin

Date Issued: November 18, 2004

TO: All Public Offices
All Independent Public Accountants

FROM: Betty Montgomery
Ohio Auditor of State

SUBJECT: Check Clearing for the 21st Century Act

This Bulletin discusses key provisions of the federal "Check Clearing for the 21st Century Act" (Check 21),[1] which affects all units of government that use the banking system. This Bulletin also addresses protestation rights under the new law and control procedures that should be implemented due to changes caused by Check 21.

The purpose of the law, which became effective on October 28, 2004, is to allow banks to process checks more efficiently by facilitating the exchange of checks via electronic images. Moreover, banks are no longer required to issue or return the original checks to customers. The Auditor of State's Office (AOS) expects that the vast majority of banks will avail themselves of this law and that customers of banking services, such as governments, will no longer receive their cancelled checks.

The Check 21 Act supersedes any federal or state law to the contrary. Correspondingly, this Bulletin supersedes Auditor of State Bulletin 96-006, *Electronic Imaging of Checks*.

General Provisions

Now that Check 21 is effective, any bank in the check-cashing/payment system (e.g., bank of first deposit, intermediary depository bank, collecting bank, etc.) will be able to remove the original check and replace it with an electronic image of the front and back of the check. The new law permits banks to process checks electronically with other banks as long as agreements are in place governing the electronic exchange. At any point in the process, however, a bank may use the electronic image to create a "substitute check" for a bank that chooses to continue receiving paper checks.

Under Check 21, this substitute check has the same legal effect as the original paper check. A substitute check is a <u>paper</u> reproduction of the original check that

- ✓ contains an image of the front and back of the original check;

[1] P.L. 108-100 , 117 STAT 1177-1194, 12 USC 5001-5018

- ✓ bears a magnetic ink character recognition (MICR) line containing all of the information appearing on the original check's MICR line, with certain exceptions;
- ✓ conforms, in paper stock, dimension, and otherwise, with generally applicable banking industry standards for substitute checks; and
- ✓ is as suitable for automated processing as the original check.

A substitute check that meets these requirements and bears the following legend is considered to be the legal equivalent of the original paper check: "This is a legal copy of your check. You can use it in the same way you would use the original check." This Bulletin includes an example substitute check as Appendix A.

In accordance with the new law, no bank is *required* to provide governments with either the original cancelled check or the substitute check. Based on discussions with banking industry representatives, however, banks are likely to provide customers with a substitute check upon request. Further, it is possible that banks may ask customers (e.g., governments) to accept some other record of checks charged to an account. For example, banks may provide a listing of check charges on a periodic statement and\or provide electronic images [or a CD-ROM listing or images of the checks] along with the periodic statement. Each of these types of records [CD-ROM listing or images of check (front and back) or substitute check] is acceptable to AOS, provided that appropriate internal controls are in place.

Neither Check 21 nor its regulations indicate whether a bank may charge the customer for a copy of the original check or the substitute check. To that end, customers might be charged to receive either of these. Therefore, AOS suggests that governments carefully scrutinize any communication from banks regarding service charges and to examine their service agreements (including amendments) with banks.

Rights to Protest Improper Charges

Under Check 21, "consumers" have the right to the expedited re-credit and other consumer protection features provided by the law. The regulations define a consumer as a "natural person," meaning a living individual person. Consequently, no government is a "consumer" as defined in these regulations. Nevertheless, governments maintain their current protections under the Uniform Commercial Code[2] to protest improper charges. Thus, given the changes caused by Check 21, governments should carefully examine their service agreements with banks to understand their rights to dispute improper charges and to recoup any fees that might have been assessed during the check-cashing/payment process.

Control Procedures

While anything other than an original check or warrant, including a substitute check, will be unable to capture some of the physical security features contained in original checks (e.g.,

[2] See generally Article 4, UCC; § 4-406.

digital watermarks, handwriting characteristics, ultraviolet inks, etc.), the increase in processing speed created through electronic check exchange should help reduce opportunities for fraud. Check 21 will also reduce the number of physical checks in circulation from which account and routing information can be stolen. Notwithstanding these benefits, control procedures are vital to help protect governments against erroneous charges, theft, and fraud.

For governments that do not receive their cancelled original or substitute checks, AOS suggests these governments request that their banks send images of the **front and back** of all issued checks. This will enable governments to review and scrutinize the transactions and ensure that the payees as well as the various endorsements are appropriate. As monthly [or other periodic] bank statements are received, reconciliation between check numbers and the amounts paid should be conducted promptly. If questionable items are identified, governments should immediately request their bank investigate these items for possible adjustment to the government's account. Furthermore, a government may want to request[3] a substitute check or the best available source document from the bank (e.g., copy of the front and back of the check) when a questionable item is identified that requires investigation.

Online Banking

When governments write checks, they are providing information to the receiver of those checks [and others, including the government's own employees] with their bank account number and their bank's Routing Transit Number. Disseminating such information increases the possibility that it could be used for non-governmental purposes. With the introduction of Check 21, governments may consider using electronic bill paying systems to the extent feasible (i.e., online banking).

When governments conduct online banking, it is critical that appropriate controls be established over the transactions similar to those established for paper transactions. No one individual should be responsible for writing checks, whether online or with paper, reconciling the related bank accounts, and entering the related transactions into the books of account. Furthermore, access should be controlled so that only authorized persons are able to initiate transactions. Access might be accomplished by a combination of password or other program controls and physical controls, such as access to a computer or terminal that processes such transactions. Finally, appropriate paper or electronic copies of transactions and balances should be retained for audit inspection.

Other Control Ideas

- ✓ Request banks to imprint the check number on the back of the check. This will enable governments to determine that the images received from the bank do, in fact, match-up with the corresponding fronts of the checks.

[3] Banks may require these requests in writing.

The AOS encourages positive pay as a method to combat certain cybercrimes.

- ✓ Do not maintain blank check stock as checks can be reproduced easily using computer software. In the event that blank check stock is not kept, then governments will no longer need to implement controls designed to secure blank, physical checks.

- ✓ Consider using a "positive pay" system, whereby a government sends a copy of the authorized check (electronic or paper) to its bank to be compared with the check that is later presented for payment. If there is a match, the payment is approved; if there is not a match, it is rejected.

- ✓ Governments using electronic banking services may wish to "block" or "filter" ACH [Automated Clearinghouse] transactions. These requirements are quite technical and beyond the scope of this Bulletin. Governments should discuss these control mechanisms with their banks, if applicable.

Governments as "Banks"

per footnote 4 below, enables

Check 21 ~~may enable~~ the State and "a unit of general local government" to act as "banks"[4] and remove[5] the original cancelled checks [or warrants] and, in turn, work with their bank to create electronic images or substitute checks[6] for further processing. Units of general local government as defined include cities; counties; villages; and townships. ~~While it is not clear as of the date of this Bulletin what effect Check 21 has on governments that act in this capacity,~~ AOS recommends that governments that intend to "remove" checks and warrants should consult their legal counsel as to their rights and responsibilities under the new law. AOS also recommends that these governments ensure that all physical and electronically imaged checks are maintained in accordance with Ohio's public records law as well as the particular government's record retention schedule.

Contacting Legal Counsel

As a result of the complex laws and regulations affecting customers' rights and responsibilities under the Act and existing banking laws and regulations, governments should consult with their legal counsel on the impact of Check 21. Further, AOS recommends governments consult legal counsel if their banks request modifications to account agreement(s).

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[4] See 12 CFR Section 229.2(z)(5), "Paying Bank" means…the state or unit of general local government on which a check is drawn and to which it is sent for payment or collection. Check 21 refers to these units of government as "payors."

[5] "Remove" in this context refers to the process of taking the check/warrant out of the stream of the check-cashing process and later destroying it in accordance with an agreed-upon timeframe.

[6] See Federal Register/ Vol 69, No. 149, page 47290, "Supplementary Information." "Banks" are *permitted* to send "substitute checks" in lieu of paper checks at any step of the process and "banks" in the process are required to accept them.

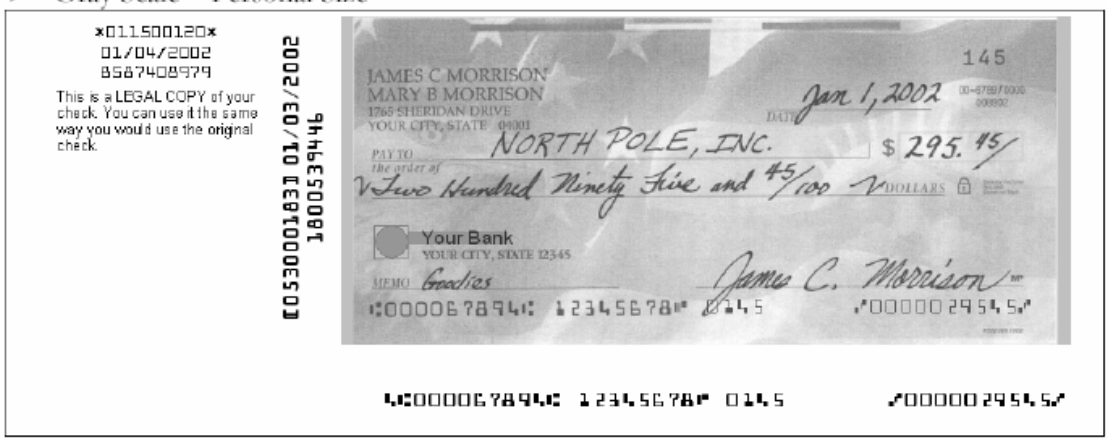
Thus, AOS strongly encourages that governments adequately plan and prepare for the implementation of the Check 21 Act, and hope that this Bulletin is of assistance to you in that effort.

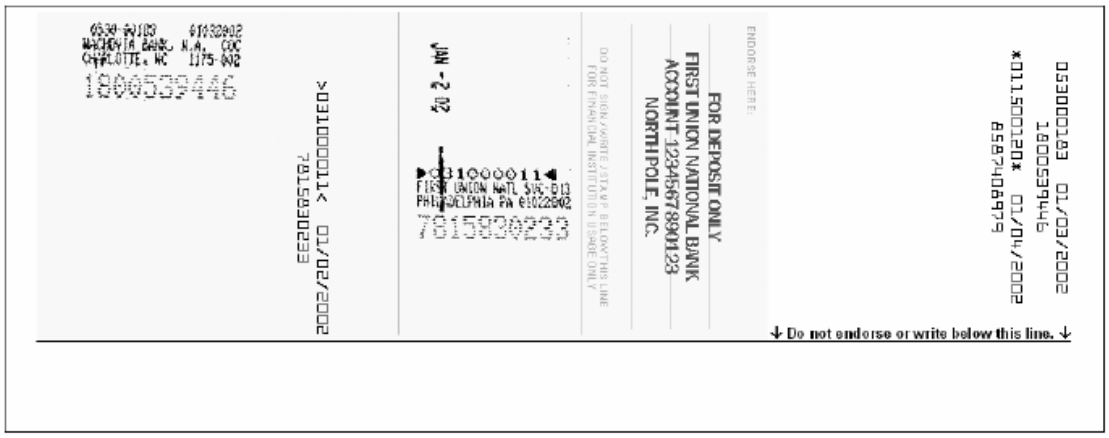
If you have any questions concerning the legal requirements of Check 21 or its regulations, AOS suggests governments contact their respective legal counsels. If you have any questions specifically pertaining to this Bulletin, please contact AOS's Accounting and Auditing Support Group at (800) 282-0370.

Betty Montgomery
Ohio Auditor of State

Appendix A – Example Substitute Check

➢ Gray Scale – Personal Size





Auditor of State
Betty Montgomery

Bulletin 2005-003

Auditor of State Bulletin

Date Issued: **May 24, 2005**

TO: **All Common Pleas Courts**
All County Courts
All Juvenile Courts
All Mayors Courts
All Municipal Courts
All Probate Courts
All Clerks of Common Pleas Courts
All Clerks of County Courts
All Clerks of Juvenile Courts
All Clerks of Mayors Courts
All Clerks of Municipal Courts
All Clerks of Probate Courts
All City Auditors and Finance Directors
All County Auditors
All Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **Clarification Regarding Use of Court Computerization Fees**

The purpose of this Bulletin is to clarify guidance offered by the Auditor of State's Office (AOS) contained in Bulletins 93-02 and 97-019 concerning permissible expenditures of additional computerization fees charged by the courts. The authority to charge additional computerization fees is derived from Ohio Rev. Code (ORC) § 2303.201 for common pleas courts; ORC § 2301.031 for domestic relations divisions; ORC § 1907.261 for county courts; ORC § 1901.261 for municipal courts; ORC § 2101.162 for probate courts; ORC § 2151.541 for juvenile courts; and ORC § 2153.081 for the Cuyahoga County juvenile court.

In Bulletin 97-019, the AOS opined that similar computerization fees can be charged by mayor's courts. In addition, Bulletin 97-019 provided further guidance regarding a court's ability to assess fees to computerize either the court itself or the clerk of court's office.

Both bulletins include a list of areas where courts can spend revenue from their computerization fees. According to the list contained in Bulletin 97-019, courts can spend computerization fee revenue on "staff expenses related to operating the computer system, including fringe benefits."[1] Some courts which are charging additional computerization fees

[1] Similarly, Bulletin 93-02 indicates that these fees can be used to pay for "staff to operate the computer system, including fringes."

have interpreted this statement in prior Bulletins to mean that the fees can be used to pay for the wages of any court employee who uses a computer.

While Bulletin 97-019 points out that the list of permissible expenditures should not be considered exhaustive and that courts should use the list as a guide, it is the AOS's opinion that revenue from these fees cannot be used to compensate any employee of the court who happens to use a computer in the ordinary course of his or her duties. Rather, the AOS believes that in providing for additional fees as specified in the relative code sections, the Ohio Legislature intended that such fees are to be used for procuring and maintaining computer systems or for computerization of the courts. This would include procurement of services for the installation, update, and maintenance of the court's computer system (e.g., computer programmers or computer engineers). Such services may be provided by employees or staff of the court and, in such 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 utilizing the court's computer systems as end-users.

If you have any questions regarding the information presented in this Bulletin, please contact the AOS Legal Division, at (800) 282-0370.

Betty Montgomery
Ohio Auditor of State

Auditor of State
Betty Montgomery

Bulletin 2005-004

Auditor of State Bulletin

Date Issued: July 19, 2005

TO: **County Auditors**
County Engineers
County Recorders
County Treasurers
County Clerk of Courts
County Coroners
County Prosecuting Attorneys
County Sheriffs
County Commissioners
County ADAMH Services Boards
County Departments of Job and Family Services
County Family and Children First Councils
County Children Service Boards
County Child Support Enforcement Agencies
County Hospitals
County Boards of Health
County Administrators
County MRDD Boards
Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: Payment for Unused Sick Leave upon Separation

On May 12, 2005, the Ohio Attorney General issued opinion 2005-020 to clarify the ability of a county office, department, commission, or board to establish a policy that permits an employee to receive payment for accrued, unused sick leave upon separation (other than retirement). The opinion was written in response to a request by the Williams County Prosecutor who sought guidance on sick leave payout policies for the Williams County Sheriff's Office. This opinion may affect the operations of various county offices, departments, commissions, or boards who receive at least one-half of their funding from the county general fund and who are the appointing authority authorized to hire personnel and fix their compensation, including fringe benefits.

In general, Revised Code § 124.39 establishes the procedures for paying accrued, unused sick leave to employees of political subdivisions. Revised Code § 124.39(C), in part, authorizes a political subdivision to adopt a policy "permitting an employee to receive payment upon a

termination other than retirement," and specifically requires that a policy offering a sick leave payout under division (C) of this section must be adopted in one of the following ways:

> (1) By resolution of the board of county commissioners for any office, department, commission, or board that receives at least one-half of its funding from the county general revenue fund;
>
> (2) By order of any appointing authority of a county office, department, commission, or board that receives less than one-half of its funding from the county general revenue fund. Such office, department, commission, or board shall provide written notice to the board of county commissioners of such order; or
>
> (3) As part of a collective bargaining agreement.

Therefore, if you are a county office, department, commission, or board that receives more than one-half of your funding from the county general fund and you wish to 1) modify the statutory entitlement to payout for accrued, unused sick leave as provided in Revised Code § 124.39(B), or 2) allow a payout of additional accrued, unused sick leave for non-union employees pursuant to Revised Code § 124.39(C), <u>you must have a policy approved by resolution of your county board of commissioners.</u> The Attorney General points out that it was the intent of the General Assembly that boards of county commissioners have final authority for such decisions, unless the matter involves employees covered by a collective bargaining agreement. Additionally, pursuant to Revised Code § 124.39(C)(3), an office, department, commission, or board with authority to negotiate and enter into collective bargaining may adopt provisions that alter statutory sick leave provisions through an agreement for employees covered by the agreement.

Beginning with audits of calendar year 2005, the Auditor of State's Office (AOS) [or contracting Independent Public Accountants (IPAs)] will test counties' compliance with this requirement. To that end, the AOS will use the following audit procedures to determine compliance:

1. During testing of payroll expenditures at various county offices, departments, commissions, and boards, determine if significant payouts were made during the audit period for accumulated sick pay for separated employees.

2. Determine if the payouts were made in accordance with Revised Code § 124.39(B). Review payouts against the law and pertinent resolutions.

3. If the payouts were not made in accordance with Revised Code § 124.39(B), review any collective bargaining agreement affecting these employees and inspect its provisions regarding these types of payouts pursuant to Revised Code § 124.39(C)(3).

4. If there are no applicable provisions in a collective bargaining agreement, determine whether the county office, etc., receives 50 percent or more of its funding from the county's general fund.

5. If the county office, etc., receives 50 percent or more of its funding from the county's general fund, obtain a copy of any board of county commissioner resolutions pertaining to this subject. This would apply to those employees not covered by a collective bargaining agreement, as well as those who were covered by such an agreement but the agreement does not include a provision granting this particular benefit.

6. If the county office, etc., receives less than 50 percent of its funding from the county's general fund, obtain a copy of that office's appointing authority's written order pertaining to this particular benefit for separated non-retirees (or for any employees who were covered by a collective bargaining agreement but the agreement does not include a provision granting this particular benefit). Inspect documentation that the board of county commissioners was notified of the policy.

Entities will be subject to adverse audit consequences, up to and including findings for recovery, for sick leave payouts not made in accordance with the requirements of the law as discussed in Opinion 2005-020 of the Ohio Attorney General. Therefore, the AOS or contracted IPA will determine compliance of sick leave payouts that were formally approved after May 12, 2005.

The AOS strongly recommends that you consult with your legal counsel to determine whether you are an office, department, commission, or board that is subject to the provisions of R.C. § 124.39, and if so, whether or not your applicable personnel policies are in compliance with the law.

If you have any legal questions regarding the information presented in this Bulletin, please contact the AOS Legal Division at (800) 282-0370. Please direct any accounting and auditing questions to the AOS Accounting and Auditing Support Group at (800) 282-0370.

Betty Montgomery
Ohio Auditor of State

Auditor of State
Betty Montgomery

Bulletin 2006-004

Auditor of State Bulletin

Date Issued: **April 28, 2006**

Accounting guidance still applies. However, check USAS manual for any changes to account codes. Also see related guidance in 2007-006.

TO: **School District Treasurers**
ESC Treasurers
Community School Finance Officers
Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **New Account Codes for School Districts**

The Auditor of State's Office (AOS), in collaboration with the Ohio Department of Education (ODE), has expanded existing Uniform School Accounting System (USAS) account codes to better track debt proceeds and debt payments. The expanded account codes will become available shortly in USAS; their use, however, will not be mandatory until fiscal year 2007. We have also expanded receipt code 3130, Property Tax Allocation, to better identify the variety of tax-related reimbursements received from the State. These new receipt codes are already in place and should be used to record the first personal property tax loss payment to be received by school districts in the May #2 foundation settlement.

Background for the Debt Accounts

Type of Bonds Issued. School districts routinely issue serial, term, and capital appreciation bonds. Serial bonds normally come due in equal annual amounts over the term of the issue. Term bonds have a single maturity date but mandatory redemption provisions requiring redemption of a certain amount of the bonds at regular intervals using money set-aside in a sinking fund. Serial and term bonds will be recorded as an other financing source using the face or principal amount of the bonds (amount payable at maturity), rather than the amount of the proceeds received by the district.

Capital appreciation bonds do not pay interest over the term of the bonds; they are sold at a discount to the face amount of the bonds and pay the face amount at maturity. The amount recorded at the time the bonds are issued would be the present value of the face amount of the bonds discounted at the stated interest rate. This amount will be available from the underwriter or the financial advisor assisting with the debt issue.

Refunding Bonds. Many school districts have found it to be financially beneficial to refund outstanding debt, i.e. issue new debt to repay debt issued at a higher interest rate. The new account codes distinguish between a new debt issue and a refunding issue whose purpose is to refund existing debt.

Premiums and Discounts. If the interest rate paid on the face amount of the bond differs from the market interest rate at the time of the issue, the bonds will sell at a premium or discount to the face value of the bonds. Premiums and discounts will be recorded separately.

Issuance Costs. Compensation paid to the participants in the issue, whether paid directly by the school district or withheld from the proceeds of the debt, will also be recorded separately.

Accrued Interest. Often the date on which the bonds begin paying interest and the date on which the bonds are delivered and the school district receives the proceeds differ. In this situation, the original purchaser of the bonds must pay the district the interest that has accrued as part of the purchase price. The purchaser will then receive a full interest payment on the first interest payment date.

Debt Related Account Codes

The expanded account codes require detailed information about each debt issue to be entered into the system. The face or principal amount of the debt will be entered as 1921 - Sale of Bonds. The new account codes distinguish between a routine debt issue and a refunding issue where the debt proceeds are used to repay outstanding debt. The face amount of the refunding debt will be recorded as 1922 – Sale of Refunding Bonds.

1920 - Sale of Bonds
- 1921 - Sale of Bonds
- 1922 - Sale of Refunding Bonds

The refunding (the satisfaction of the liability for the refunded debt) may occur by simultaneously paying the holders of the old debt directly. More frequently, the proceeds of the new debt are paid to an escrow agent to be held in an irrevocable trust that will be used to pay the old debt as it matures. Function (7910) and object (950) codes have been added to specifically identify the amount provided by the new issue that was paid to the refunded bond escrow agent to be placed in trust. Occasionally the amount received from the new issue is not enough to pay off the old debt and additional money is paid to the escrow agent by the district from existing resources. A separate object code (831) has been added to separately identify this type of payment.

7900 - Other Miscellaneous Use of Funds
- 7910 - Payment to Refunded Bond Escrow Agent

830 - Other Debt Service Payments
- 831 - Payments to Escrow Agents (Not Paid from Bond Proceeds)

900 – Other Uses of Funds
- 950 - Payments to Refunded Bond Escrow Agent (Paid from Bond Proceeds)

If the interest rate paid on the face amount of the bond differs from the market interest rate at the time of the issue, the bonds will sell at a premium or discount to the face value of the

bonds. The premium or discount should be recorded separately from the proceeds as an other financing source (receipt code 1911 or 1912 in the debt service fund) or use (function 7920, objects 961 or 962 in the bond/project fund).

1900 - Other Revenue Sources
- 1910 - Premium and Accrued Interest on Bonds and Notes Sold
  - 1911 - Premium on the Sale of Bonds and Notes
  - 1912 - Premium on the Sale of Refunding Bonds

7900 - Other Miscellaneous Use of Funds
- 7920 - Discount on the Sale of Debt

900 – Other Uses of Funds
- 960 - Discount on Debt
  - 961 – Discount on the Sale of Debt
  - 962 – Discount on the Sale of Refunding Debt

Often the date on which the bonds begin paying interest and the date on which the debt is delivered to the purchaser differ, resulting in accrued interest. The accrued interest is paid by the purchaser as part of the purchase price and is returned to the purchaser when the first interest payment is paid in full. The accrued interest received as a result of the debt issue should be recorded separately in the debt service fund using receipt codes 1913 and 1914.

1900 - Other Revenue Sources
- 1910 - Premium and Accrued Interest on Bonds and Notes Sold
  - 1913 - Accrued Interest on the Sale of Bonds and Notes
  - 1914 - Accrued Interest on the Sale of Refunding Bonds

There may be a number of parties involved in a bond issue including a financial advisor, bond counsel and underwriter. The compensation paid to these participants, whether paid directly by the school district or withheld from the debt proceeds, should be identified and reported separately using objects 832 and 833.

830 - Other Debt Service Payments
- 832 - Bond Issuance Costs
- 833 - Refunding Bond Issuance Cost

This level of detail is required by generally accepted accounting principles and will assist in making the cash to GAAP conversion process much more efficient. Identifying the amounts related to each part of the transaction should be significantly easier when done at the time of the transaction rather than having to go back and reconstruct the transaction after year-end. A summary of all the new codes available to record the issuance of debt follows.

Receipt Codes

1900 - Other Revenue Sources

1910 - Premium and Accrued Interest on Bonds and Notes Sold
- 1911 - Premium on the Sale of Bonds and Notes
- 1912 - Premium on the Sale of Refunding Bonds
- 1913 - Accrued Interest on the Sale of Bonds and Notes
- 1914 - Accrued Interest on the Sale of Refunding Bonds
- 1919 - Other Premiums and Accrued Interest on the Sale of Debt

1920 - Sale of Bonds
- 1921 - Sale of Bonds
- 1922 - Sale of Refunding Bonds

1940 - Proceeds from Sale of Notes
- 1941 - Sale of Current Year Tax Anticipation Notes
- 1942 - Sale of Current Year Revenue Anticipation Notes
- 1943 - Sale of Long-Term Tax Anticipation Notes
- 1944 - Sale of Energy Conservation Notes
- 1949 - Sale of Other Notes

Function Codes

7900 - Other Miscellaneous Use of Funds
- 7910 - Payment to Refunded Bond Escrow Agent
- 7920 - Discount on the Sale of Debt
- 7990 - Other Miscellaneous Use of Funds

Object Codes

830 - Other Debt Service Payments
- 831 - Payments to Escrow Agents (Not Bond Proceeds)
- 832 - Bond Issuance Costs
- 833 - Refunding Bond Issuance Cost
- 839 - Other Debt Service Payments

900 – Other Uses of Funds
- 950 - Payments to Refunded Bond Escrow Agent (Bond Proceeds)
- 960 - Discount on Debt
  - 961 – Discount on the Sale of Debt
  - 962 – Discount on the Sale of Refunding Debt
  - 969 – Discount of Sale of Other Debt

Tax Related Reimbursements

There are numerous instances in which the State has reduced the property tax receipts that local governments would otherwise have received either through direct reductions in tax bills (such as the 10% rollback) or through reductions in assessed values (such as recent reductions in assessed values for electrical utilities). Most recently, the State has eliminated the personal property tax through a series of scheduled reductions in assessed values. In many circumstances, the State provides at least a partial reimbursement for the resulting reductions in property tax proceeds. It is the desire of the AOS to account for these reimbursements

uniformly. We have therefore expanded the 3130 Property Tax Allocation account codes to specifically identify these payments. The account codes are:

3100 – Unrestricted Grants-in-Aid
- 3130 - Property Tax Allocation
  - 3131 - 10 Percent and 2.5 Percent Rollback
  - 3132 - Homestead Exemption
  - 3133 - $10,000 Personal Property Tax Exemption
  - 3134 - Electric Deregulation Property Tax Replacement
  - 3135 - Tangible Personal Property Tax Loss
  - 3139 - Other Property Tax Allocations

The elimination of the tangible personal property tax will be offset by the State in two ways. First, a direct payment will be made by the State through the foundation settlement. This amount will be specifically identified as a journal voucher on the semi-monthly settlement statement, the first payment being made in May, 2006. Beginning in August, 2007, the reimbursement for fixed rate levies will come in two parts. Part will come in the form of additional formula aid since the local share of base cost funding (the charge-off) will be reduced as the assessed values used to compute the charge-off decline. The remainder of the reimbursement will still come through direct payments. Only the amount of the direct payment will be recorded as a Property Tax Allocation receipt using the new 3135 account code.

We recognize that school districts have been coding the electric deregulation property tax replacement as 3190, Other Unrestricted Grants-in-Aid, and may be concerned about this change affecting the comparability of prior year statements. For those districts using state software, if this was the only amount recorded as 3190 or if it was the only significant receipt recorded as 3190, you may use the "actchg" function to move prior year information to the new 3134 account. This procedure will affect all prior year data, including the three years of historical data automatically pulled into the five year forecast using State software. This will also allow many of the USAS reports to be re-run for prior years, if desired, in order to make them comparable to current information.

If you have any questions regarding the information presented in this Bulletin, please contact the AOS Local Government Services Section at (800) 345-2519.

Betty Montgomery
Ohio Auditor of State

Auditor of State
Betty Montgomery

Bulletin 2006-007

Auditor of State Bulletin

Date Issued: **June 30, 2006**

TO: **All Public Offices**
Independent Public Accountants

FROM: **Betty Montgomery**
Ohio Auditor of State

SUBJECT: **Public Contracting/Required Financial Reviews (Sections 9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 9.238, 9.239, R.C.)**

Overview

Recently enacted House Bill 66, the State's biennial budget bill, contains a series of provisions which affect the process for public offices that contract with private entities.[1] This Bulletin is intended to notify public offices about a form for financial reviews which the Auditor of State is required to create and make available. Please note that this Bulletin is not intended to be a comprehensive explanation of the public contracting provisions included in House Bill 66. Public offices should consult with their legal counsel about the requirements of the bill, and the Auditor of State will defer to the well reasoned opinions of legal counsel on interpretations of the law.

Background

The Revised Code sections identified above, all of which were enacted in House Bill 66 (effective January 1, 2006), include specific requirements for contracts between public offices (on both the State and local level) and private entities, in excess of $25,000. Exceptions to these requirements are described in R.C. § 9.231. These statutes include specific requirements that must be addressed in those contracts, such as the minimum percentage of money that must be expended on direct costs, records that must be maintained, and allowable dispositions of money received in excess of the allowable amount. The bill requires annual reporting by the private entities, addresses the manner in which misspent money may be recovered, and gives the contracting public offices access to the records of the private entity related to the contract.

Financial Review Forms (Sections 9.234, 9.238, R.C.)

[1] Includes both nonprofit and for-profit entities.

House Bill 66 also requires in R.C. § 9.234 (B), annual audits or financial reviews, depending on the amount of money received by the private entity, conducted by independent public accounting firms. It is the responsibility of the public office to identify the contractors to whom this applies and to ensure that the annual audits or financial reviews are completed. It should be noted that R.C. § 9.234 includes language which clarifies that these audit and financial review requirements do not limit the authority of the Auditor of State to conduct audits authorized elsewhere in the Revised Code. Further, if the contracted private entity receives an audit conducted in accordance with generally accepted auditing standards or if the audit is conducted pursuant to the federal "Single Audit Act of 1984," the private entity is not required to undergo either the financial review or the annual audit required per House Bill 66.

Relative to these requirements, R.C. § 9.238 requires the Auditor of State to prescribe a single form independent accountants must use for the financial reviews required of private entities receiving between $100,000 and $500,000 of public money. In compliance with this requirement the Auditor of State has developed a financial review form, which is attached to this Bulletin and which shall be used to comply with R.C. § 9.234 (B). The financial review form may also be obtained from the Auditor of State website at www.auditor.state.oh.us. Then click on "IPA Resources."

The contracted private entity must provide the public agency with the completed financial review or audit report for each year in which it meets the thresholds described in R.C. § 9.234. Please note that copies do not need to be submitted to the Auditor of State's Office.

Questions

Questions regarding the financial review form should be addressed to the Accounting & Auditing Support Group of the Auditor of State's Office at 1-800-282-0370. Any questions with regard to the public contracting provisions of House Bill 66 should be directed to your legal counsel.

Betty Montgomery
Ohio Auditor of State

1. SAMPLE REVIEW REPORT ON CONTRACTOR'S SCHEDULE

Independent Accountant's Report

Contractor Name
Contractor Address

We have reviewed the accompanying Schedule of Revenues and Expenses of [*Contractor]* for the fiscal year ended [Date], in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants and the requirements of the Auditor of State of Ohio. All information included in this Schedule is the representation of the management of [*Contractor*].

A review consists principally of inquiries of company personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the Schedule taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying Schedule in order for it to be in conformity with generally accepted accounting principles and the provisions of section 9.232 of the Ohio Revised Code.

[*Signature of Accountant*]

[*Date*]

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2. FORMAT FOR THE CONTRACTOR'S SCHEDULE OF CONTRACTED REVENUES AND EXPENSES

Major categories of contract revenues [detailed]

Major Categories of Contract Expenses [detailed]
- Direct
- Allocable Nondirect

Notes to the Schedule
- Significant Accounting Policies
- Methodology for computing direct and non-direct costs as defined in the ORC\OAC
- Other

Supplementary Information: Summary of Activities for which the contractor used the contracted money

3. OPTIONAL PRACTICE AIDS

REVIEW ENGAGEMENT LETTER

[*Contractor/Client Name*]
[*Contractor Address*]

Dear [*Client*]:

This letter is to confirm our understanding of the terms and objectives of our engagement and the nature and the limitations of the services we will provide.

We will perform the following services:

We will review the Schedule of Revenues and Expenses of the [*Contractor*] for the fiscal year ended [Date] in accordance with Statement on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants and the requirements of the Auditor of State of Ohio.

Our review will consist primarily of inquiries of company personnel and analytical procedures applied to financial data, and we will require a representation letter from management. A review does not contemplate obtaining an understanding of the internal control structure or assessing control risk, tests of accounting records, and responses to inquiries by obtaining corroborating evidential matter, and certain other procedures ordinarily performed during an audit. Thus, a review does not provide assurance that we will become aware of all significant matters that would be disclosed in an audit. Our engagement cannot be relied upon to disclose errors, fraud, or illegal acts that may exist. However, we will inform the appropriate level of management of any material errors that come to our attention and any fraud or illegal acts that come to our attention, unless they are clearly inconsequential.[1] We will not perform an audit of such Schedule, the objective of which is the expression of an opinion regarding the Schedule taken as a whole, and accordingly, we will not express such an opinion on it.

Our review report on the Schedule of [Contractor] is currently expected to read as follows:

> **We have reviewed the accompanying Schedule of Revenues and Expenses of [*Contractor*] for the fiscal year ended [Date], in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants and the requirements of the Auditor of State of Ohio. All information included in this Schedule is the representation of the management of [*Contractor*].**

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[1] Paragraph 5.20 of *Government Auditing Standards* (2003 Revised) indicates that quantitative and qualitative factors determine whether a non-compliance item is: "clearly inconsequential." The Auditor of State's *Ohio Compliance Supplement* classifies audit findings with an impact of $100 or less as "clearly inconsequential."

A review consists principally of inquiries of company personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the Schedule taken as a whole. Accordingly, we do not express such an opinion.

Based on our review, we are not aware of any material modifications that should be made to the accompanying Schedule in order for it to be in conformity with generally accepted accounting principles and the provisions of section 9.232 of the Ohio Revised Code.

If, for any reason, we are unable to complete the review of your Schedule, we will not issue a review report on such Schedule as a result of this engagement.

Our fee for these services will be based on the number of hours required by the staff assigned to complete the engagement. In accordance with our recent discussion, we believe that the engagement fee will not exceed $. However, if we encounter unexpected circumstances that require us to devote more staff hours to the engagement than estimated, we will discuss the matter with you.

We look forward to a continued relationship with your company, and we are available to discuss the contents of this letter or other professional services you may desire.

If the foregoing is in accordance with your understanding, please sign the copy of this letter in the space provided and return it to us.

Sincerely,

[*Signature of Accountant*]

ACKNOWLEDGED:

[*Contractor*]

[*Date*]

REVIEW PROGRAM

Use the following procedures as a guide for performing a continuing review engagement. The review program is only a guide, and professional judgment should be exercised to determine how the procedures should be modified by revising procedures listed or adding procedures to the review program.

Initial and date each procedure as it is completed. If the procedure is not relevant to this particular review engagement, place "N/A" (not applicable) in the space provided for an initial.

Client Name: _____

Date of Schedule: _____

Date of Fieldwork: _____

	Initials	*Date*	*Workpaper Reference*
1. Acquire an adequate understanding of accounting principles and practices of the client's industry and methods of applying them.	_____	_____	_____
2. Develop an understanding of the client's organization.	_____	_____	_____
3. Develop an understanding of the client's operating characteristics.	_____	_____	_____
4. Develop an understanding of the nature of the client's assets, liabilities, revenues, and expenses.	_____	_____	_____
5. Make inquiries concerning the client's accounting principles, practices, and methods, including computing direct costs as defined in Ohio Administrative Code section ..	_____	_____	_____
6. Make inquiries concerning the client's procedures for recording, classifying, and summarizing transactions and accumulating information for disclosure in the Schedule, including the direct and indirect cost methodologies.			
7. Make inquiries concerning actions taken by the contractor's governing authority at meetings of stockholders, board of directors, or other meetings that may affect the Schedule.	_____	_____	_____
8. Make inquiries concerning the consistent application of GAAP.	_____	_____	_____

9. Make inquiries concerning changes in the client's business activities or accounting principles and the implication for Schedule.

10. Make inquiries concerning occurrence of subsequent events that may have a material effect on the Schedule.

11 Make inquiries regarding the extent of unusual or complex situations that might exist and that have a material effect on the Schedule.

12. Make inquiries about whether significant transactions occurred or were recognized in the last several days of the reporting period.

13. Inquire about the status of uncorrected misstatements identified in prior engagements.

14. Inquire regarding whether management has any knowledge of fraud or suspected fraud affecting the entity that might involve management or others that could materially misstate the Schedule.

15. Make inquiries concerning the types of significant journal entries or other adjustments that exist.

16. Inquire regarding whether the client has received communications from regulatory or contracting agencies.

17. Apply analytical procedures to identify relationships and individual items that appear to be unusual.

18. Consider whether other professional services are needed before starting the review engagement.

19. If appropriate, obtain reports from other accountants.

20. Consider whether other review procedures should be performed on the basis of the results of performing the minimum review procedures. _____ _____ _____

21. Read the Schedule to consider if it conforms with GAAP. _____ _____ _____

22. Obtain a client representation letter. _____ _____ _____

23. Other review procedures:

_____
_____
_____
_____

Reviewed By: _____

Date: _____

_____

REVIEW CHECKLIST

Use the following checklist as a guide for performing review procedures in a continuing engagement. The checklist is only a guide, and professional judgment should be exercised to determine how the checklist should be modified by revising questions listed or adding questions to the checklist where appropriate.

Initial and date each question as it is considered. If the question is not relevant to this particular review engagement, place "N/A" (not applicable) in the space provided for an initial. If the answer to the question is "no" or if additional explanation is needed with respect to a question, provide a proper cross-reference to another workpaper.

Client Name: _____

Date of Schedule: _____

	Initials	*Date*	*Workpaper Reference*

1. Have we acquired an adequate understanding of specialized accounting principles and practices of the client's industry by
   - Reviewing relevant AICPA Accounting/Audit Guides? _____ _____ _____
   - Reviewing Schedules of other entities in the same industry? _____ _____ _____
   - Consulting with other individuals familiar with accounting practices in the specialized industry? _____ _____ _____
   - Reading periodicals, textbooks, and other publications? _____ _____ _____
   - Performing other procedures? _____ _____ _____
2. Have we developed an understanding of the client's organization, including
   - The form of business organization? _____ _____ _____
   - The history of the client? _____ _____ _____
   - The principals involved in the organizational chart or similar _____ _____ _____
   - Other relevant matters? _____ _____ _____
3. Have we developed an understanding of the client's operating characteristics, including
   - An understanding of the client's products and services? _____ _____ _____
   - Identification of operating locations? _____ _____ _____
   - Other operating characteristics? _____ _____ _____

4. Have we developed an understanding of the nature of the client's assets, liabilities, revenues, and expenses by
   - Reviewing the client's chart of accounts? _____ _____ _____
   - Reviewing the previous year's Schedule? _____ _____ _____
   - Considering the relationships between specific accounts and the nature of the client's business? _____ _____ _____
   - Performing other procedures? _____ _____ _____
5. Have we made inquiries concerning accounting principles, practices, and methods? _____ _____ _____
6. Have we made inquiries concerning the accounting procedures used by the client, including
   - Recording transactions? _____ _____ _____
   - Classifying transactions? _____ _____ _____
   - Summarizing transactions? _____ _____ _____
   - Accumulating information for making disclosures in the Schedule? _____ _____ _____
   - Other accounting procedures? _____ _____ _____
7. Have we made inquiries concerning the effect on the Schedule due to actions taken at meetings of the contractor's governing authority
   - Stockholders? _____ _____ _____
   - The board of directors? _____ _____ _____
   - Other committees? _____ _____ _____

8. If there were changes in the application of accounting principles
   - Did the change in accounting principle include the adoption of another acceptable accounting principle? _____ _____ _____
   - Was the change properly justified? _____ _____ _____
   - Were the effects of the change presented in the Schedule, including adequate disclosure, in a manner consistent with APB-20? _____ _____ _____
   - Were there other matters that we took into consideration? _____ _____ _____
9. Have we made inquiries concerning changes in the client's business activities that may require the adoption of different accounting principles, and have we considered the implication of this change for the Schedule? _____ _____ _____
10. Have we made inquiries concerning the occurrence of events subsequent to the date of the Schedule that may require
    - Adjustments to the Schedule? _____ _____ _____
    - Disclosures in the Schedule? _____ _____ _____
11. Have we made inquiries regarding the extent of unusual or complex situations that might exist and that have a material effect on the Schedule? _____ _____ _____
12. Have we made inquiries about whether significant transactions occurred or were recognized in the last several days of the reporting period? _____ _____ _____
13. Have we inquired about the status of uncorrected misstatements identified in prior engagements? _____ _____ _____

14. Have we inquired regarding whether management has any knowledge of fraud or suspected fraud affecting the entity that might involve management or others that could materially misstate the Schedule? _____ _____ _____

15. Have we made inquiries concerning the types of significant journal entries or other adjustments that exist? _____ _____ _____

16. Have we inquired regarding whether the client has received communications from regulatory or contracting agencies? _____ _____ _____

17. Have we performed analytical procedures, including

    - Comparing current Schedule with comparable prior period(s)? _____ _____ _____
    - Comparing current Schedule with anticipated results? _____ _____ _____
    - Studying financial statement elements and expected relationships? _____ _____ _____
    - Other analytical procedures? _____ _____ _____

18. Have we considered whether other professional services are needed in order to complete the review engagement, including

    - Preparing a working trial balance? _____ _____ _____
    - Preparing adjusting journal entries? _____ _____ _____
    - Consulting matters fundamental to the preparation of acceptable Schedule? _____ _____ _____
    - Providing bookkeeping or data processing services that do not include the generation of Schedule? _____ _____ _____
    - Considering other services that may be necessary before a review can be performed? _____ _____ _____

19. Have we obtained reports from other CPA(s) who reported components of the client-reporting entity?	_____	_____	_____
20. Have we read the Schedule to determine whether it appears to be in accordance with GAAP based on the information that has come to our attention?	_____	_____	_____
21. Have we obtained a client representation letter?	_____	_____	_____
22. Have we used other procedures to resolve questions during the review arrangement?	_____	_____	_____

Reviewed By: _____

Date: _____

CLIENT REPRESENTATION LETTER

[*Date (no earlier than the date of the accountant's report)*]
[*lAuditor Name*]
[*Address*]

Dear [*Auditor*]:

In connection with your review of the Schedule of Revenues and Expenses of [*Contractor*] for the year ended [Date], for the purpose of expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles, we confirm, to the best of our knowledge and belief, the following representations made to you during your review.

1. The Schedule referred to above presents the revenues and expenses of [*Contractor*] related to contracts entered into pursuant to section 9.231 of the Ohio Revised Code in conformity with generally accepted accounting principles. In that connection, we specifically confirm that:

   a. The company's accounting principles, and the practices and methods followed in applying them are as disclosed in the Schedule.

   b. There have been no changes during the year ended [*Date*] in the company's accounting principles and practices.

c. There are no material transactions that have not been properly reflected in the Schedule.

d. There are no violations or possible violations of laws or regulations whose effects should be considered for disclosure in the Schedule or as a basis for recording a loss contingency, and there are no other material liabilities or gain or loss contingencies that are required to be accrued or disclosed. Also, there are no unasserted claims or assessments that our lawyer has advised us are probable of assertion that must be disclosed in accordance with Financial Accounting Standards Board (FASB) Statement No. 5 (CT C59), Accounting for Contingencies.

e. There are no related-party transactions, including sales, purchases, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties that have not been properly disclosed in the Schedule.

f. We have complied with all aspects of contractual agreements that would have a material effect on the financial statement in the event of noncompliance.

g. To the best of our knowledge and belief, no events have occurred subsequent to [[fiscal year end date] and through the date of this letter that would require adjustment to our disclosures in the Schedule.

h. Management has identified all significant estimates used in the preparation of the Schedule.

2. We have advised you of all actions taken by our governing authority at meetings of [stockholders, the board of directors, and committees of the board of directors] (or other similar bodies, as applicable) that may affect the Schedule.

3. We have responded fully and truthfully to all inquiries made to us by you during your review.

Mary Taylor, CPA
Auditor of State

Bulletin 2007-003

Auditor of State Bulletin

Date Issued: April 6, 2007

TO: **School District Treasurers**
Educational Service Center Treasurers
Community School Finance Officers
Independent Public Accountants

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: **598 Schoolwide Building Program Fund**

Background

The purpose of this bulletin is to inform you of the creation of a Schoolwide Building Program Fund. The Schoolwide Building Program Fund allows for the pooling of Federal, State, and local funds to be used to upgrade the overall instructional program of a school building where at least 40 percent of children are from low-income families. The provision for this program was created under the No Child Left Behind Act of 2001.

Schoolwide programs address the educational needs of children living in impoverished communities with comprehensive strategies for improving the whole school (a school building) so every student achieves high levels of academic proficiency. Schoolwide programs have great latitude to determine how to organize their operations and allocate the multiple funding sources available to them. They do not have to identify particular children as eligible for services or separately track Federal dollars. Instead, schoolwide programs can use all allocated funds to increase the amount and quality of learning time.

Accounting Procedures

The Schoolwide Building Program Fund is optional to those school districts that are eligible. In order to use the Schoolwide Building Program Fund, a school district must have an approved consolidated funding application from the Ohio Department of Education. School districts should use fund number 598 from the Uniform School Accounting System for the program. A special cost center should also be used for each eligible building.

The receipts to the Schoolwide Building Program Fund are transfers from federal grants[1] that are typically accounted for in separate federal grant funds. School districts are to initially record the individual federal grant receipts to the appropriate federal grant fund and the portion to be used in the schoolwide building program should be transferred to the Schoolwide Building Program Fund. Similarly, the program also requires school districts to contribute State and local matching funds to the program using transfers. School Districts should appropriate for and record a transfer-out of the contributing grant funds to the Schoolwide Building Program Fund.

Dollars transferred to the Schoolwide Building Program Fund must support the purposes of the grants which contributed to the Schoolwide Building Program Fund and be consistent with the schoolwide building plans. For example, if the school building program plan includes recruiting, hiring and retaining highly qualified teachers and extending high speed internet connections to all classrooms, then Improving Teacher Quality (Title II, Part A) grants (fund 590) and Education Technology (Title II, Part D) grants (fund 599) may contribute to the Schoolwide Building Program Fund. As long as the school maintains records that demonstrate that the schoolwide building program (considered as a whole) addresses the intent and purposes of each of the Federal programs that were consolidated to support the program, the school is not required to maintain separate fiscal accounting records (by program) that identify the specific activities supported by those particular funds. The use of this fund does not change the audit requirement for federal program compliance.

At fiscal year-end, the revenues and expenditures of the Schoolwide Building Program Fund need not be allocated back to the original contributing funds in order to demonstrate compliance with the contributing grant programs; however, the Schoolwide Building Program Fund expenditures should be reported as part of and in the same proportion as the contributing funds on the Schedule of Federal Financial Assistance.

Using the approved consolidated funding application, a school district may establish a requirement that a certain percentage of the amounts transferred to the Schoolwide Building Program Fund be obligated by fiscal year-end. Care should be taken to ensure that the percentage is met. Money not obligated by fiscal year-end shall revert to the original contributing source in proportion to the amounts contributed. For example, if the State and local funds contributed 20 percent and the fund has $100 not obligated at fiscal year-end, then $20 would revert to the State and local funds that provided the funds and $80 would revert to the individual grant funds that originally contributed to the Schoolwide Building Program Fund.

The Schoolwide Building Program Fund should be included on the School District's certificate of estimated resources and the Board of Education must appropriate the expenditures. In addition, the Board of Education must authorize, by resolution, the

[1] For a list of grants that are eligible to participate in the Schoolwide Building Program Fund, please consult the Comprehensive Continuous Improvement Plan documents library at www.ode.state.oh.us.

schoolwide building program, and the transfer of resources from the individual grant funds, including the matching funds, to the Schoolwide Building Program Fund.

Questions and Comments

If you have any questions or comments regarding the information presented in this Bulletin, please contact the Local Government Services Section of the Auditor of State's Office at (800) 345-2519.

Mary Taylor, CPA
Ohio Auditor of State

Mary Taylor, CPA
Auditor of State

Bulletin 2007-006

Auditor of State Bulletin

Date Issued: **July 11, 2007**

TO: **School District Treasurers**
JVSD Treasurers
Educational Service Center Treasurers
Community School Finance Officers
Independent Public Accountants

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: **Additional Guidance on the Use of the New Account Codes for Debt Refunding Transactions**

Purpose of the Bulletin

In Bulletin 2006-004, the Auditor of State's Office provided new account codes for the proper recording of debt refunding transactions. Based on inquiries we have received, we have agreed to provide additional guidance per this Bulletin.

What is Intended

Some portions of a refunding transaction should be recorded and reported as Expenditures while other portions of the transaction should be reported as Other Financing Uses. Bulletin 2006-004 expanded the 830 object codes (Other Debt Service Payments) to address those aspects of the refunding transaction that should be reported as Expenditures. The aspects of the refunding transaction that should be reported as Other Financing Uses have been included in the new 900 level object codes.

The Questions

Treasurers have been asking why the uniform school accounting system will not accept a transaction that uses the 7900 function code and 830 objects. That is because the 7900 function code is used exclusively for transactions that are to be reported as Other Financing Uses. Since the 830 objects are intended to be reported as Expenditures (rather than Other Financing Uses), they will not work with the 7900 function. When using the 830 objects, use the 6100 function, Debt Service.

The new 900 level objects are intended to appear on the financial statements as Other Financing Uses. They should be used with the 7900 function and not 6100.

Mary Taylor, CPA
Auditor of State

Bulletin 2007-008

Auditor of State Bulletin

Date Issued: **August 30, 2007**

TO: **School District Treasurers**
Educational Service Center Treasurers
JVSD Treasurers
Community School Finance Officers
Community School Sponsors
Independent Public Accountants

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: **Unauditable Community Schools**

This section is still law, even though its not codified in ORC.

Overview

Recently enacted House Bill 119, the State's biennial budget bill, includes a provision that affects those community schools declared unauditable by the Auditor of State's Office (AOS) or by a contracted Independent Public Accountant (IPA) firm pursuant to Section 117.41 of the Ohio Revised Code. Section 269.60.60 of the biennial budget bill also places certain requirements and restrictions on sponsors of unauditable community schools. The purpose of this Bulletin is to inform you of the new provision, describe how the AOS intends on fulfilling its role under the new provision, and provide guidance to community schools on how to avoid an unauditable declaration.

Unauditable Offices

Ohio Revised Code Section 117.41 enables the AOS or contracted IPA firm to declare a public office to be "unauditable" (i.e., unable to be audited) when its accounts, records, files, or reports have been improperly maintained and, as such, the documentation is insufficient to perform the audit. If the AOS determines that the records are insufficient, the AOS sends a letter to the public office that formally declares it to be unauditable.[1] The letter outlines the procedures the public office must follow to bring its records into an auditable condition, and generally includes a list of missing or insufficient records. If the public office fails to make reasonable efforts and continuing progress to bring its records into an auditable condition within 90 days after being declared unauditable, the AOS shall request the Attorney General's Office to commence legal action pursuant to Section 117.42 of the Ohio Revised Code to compel the public office to bring its accounts, records, files, or reports into an auditable condition.

Unauditable Community Schools

[1] In practice, when an IPA firm has been contracted to complete an audit and believes the public office should be declared unauditable, the firm informs the AOS of the situation. Once notified, the AOS evaluates the condition of the records and makes the determination whether the public office is auditable.

When a community school is declared unauditable, Section 269.60.60 of the biennial budget bill requires the AOS to provide written notification of the unauditable declaration to the community school, the school's sponsor, and the Ohio Department of Education (ODE). The AOS shall also post the notification on its website.

Upon being notified that a community school has been declared unauditable, the sponsor is not permitted to contract with any additional community schools per Section 3314.03 of the Revised Code until the AOS or contracted IPA firm has completed a financial audit of that community school. Additionally, within 45 days of being notified, the school's sponsor must provide a written response to the AOS and include the following information:

- An overview of the process the sponsor will use to review and understand the circumstances that led to the school's unauditable condition;
- A plan for providing the AOS with the documentation necessary to complete an audit of the community school and for ensuring that all financial documents are available in the future; and
- The actions the sponsor will take to ensure the plan described above is implemented.

If the community school fails to make reasonable efforts and continuing progress to bring its records into an auditable condition within 90 days after being declared unauditable, the AOS shall request legal action pursuant to Section 117.42 of the Ohio Revised Code to compel the school to bring its accounts, records, files, or reports into an auditable condition. The AOS must also notify the ODE of the school's failure. Conversely, if the AOS or contracted IPA firm is able to complete the audit, the AOS must notify the ODE that the audit has been completed.

Upon notification that the community school failed to make reasonable efforts and continuing progress to bring its records into an auditable condition, the ODE shall immediately cease all payments to the school under Chapter 3314 of the Revised Code and any other provision of law. Upon subsequent notification that the AOS or contracted IPA firm was able to complete the audit, the ODE shall release all funds that were withheld from the school. Please note that the community school is considered unauditable until the audit report is publicly released.

Use of Professional Judgment

As we have done in the past with all public offices subject to audit, the AOS will use due professional care and sound judgment in determining whether a community school can be audited and whether an unauditable community school has made reasonable efforts and continuing progress to bring its records into an auditable condition. Exercising due professional care is based upon auditors following generally accepted government auditing standards and using sound judgment to ensure and maintain competence, integrity, objectivity, and independence in planning, conducting and reporting their work. Because each unauditable declaration traditionally has its own unique set of circumstances, the AOS will handle each declaration on a case-by-case basis and use professional judgment as each set of circumstances dictates. IPA firms should contact their respective AOS regional office when they believe an entity's records are insufficient for audit and should be declared unauditable. AOS regional management will evaluate the condition of the school's records and draft the unauditable declaration if the school's records are insufficient for audit. Each unauditable declaration will be reviewed and approved by the AOS Chief Deputy Auditor before issuance. Determinations of

reasonable efforts and *continuing progress* will also be made on a case-by-case basis; however, community schools should understand these efforts must be measurably substantial to allow the audit to move forward.

Reporting requirements now described in Bulletin 2015-07.

Avoiding an Unauditable Declaration

To help avoid being declared unauditable, the AOS recommends community schools file complete annual financial reports pursuant to Generally Accepted Accounting Principles (GAAP) with the AOS within 150 days after the close of the fiscal year, pursuant to Section 117.38 of the Ohio Revised Code. Although the AOS will not declare an entity to be unauditable solely because it failed to file within the statutorily established timeframe, this does provide cause for the AOS to expedite the review of the entity's records. (Please refer to bulletins ~~2001-012 and 2006-02~~ for more information on filing requirements.) Additionally, having the requisite records and other documentation on hand when the auditors arrive to perform the audit greatly facilitates the entire audit process. As such, to help avoid an unauditable declaration, the following information is typically needed for an audit of a community school:

- An accurate/complete reconciliation of the school's bank and investment accounts to the school's book balance including supporting documentation (e.g., listing of outstanding checks, listing of deposits in transit, support for other adjustments, etc.);
- Approved minutes for all Board meetings held during the fiscal year;
- Ledgers with all fiscal year activity posted;
- Supporting documentation (e.g., receipt detail, expense detail, payroll records, leases, capital assets, contracts with employees and service providers, etc.); and
- Financial statements including notes and management's discussion and analysis.

Please note that this list is not meant to include every item or record necessary for an audit. Rather, the list includes those major items/records that the AOS believes will significantly reduce the school's probability of being declared unauditable. Because each audit client has its own unique set of circumstances, the AOS cannot provide a definitive list of items/records. Nevertheless, the AOS strongly recommends that community schools have these items/records available when the auditors arrive to perform the audit.

Effective Date

Community schools declared unauditable for the fiscal year ended June 30, 2007 and in subsequent years will be subject to the requirements and provisions contained in Section 269.60.60 of the biennial budget bill.

Questions and Comments

If you have any accounting or auditing related questions regarding the information presented in this Bulletin, please contact the AOS Accounting and Auditing Support Group at (800) 282-0370.

Mary Taylor, CPA
Auditor of State

Bulletin 2008-003

Auditor of State Bulletin

Date Issued: April 9, 2008

TO: School District Treasurers
Educational Service Center Treasurers
STEM School Governing Bodies
STEM School Treasurers
Independent Public Accountants

FROM: Mary Taylor, CPA
Ohio Auditor of State

SUBJECT: Guidance for Science, Technology, Engineering and Mathematics (STEM) Schools

Authority for the establishment of Science, Technology, Engineering and Mathematics (STEM) schools is provided for in Ohio Rev. Code Chapter 3326, effective 6-30-2007. This bulletin provides guidance related to financial accounting, reporting, internal control, compliance and audit requirements for STEM schools.

STEM schools should notify the Auditor of State's office of their creation at the beginning of the first fiscal year in which they commence operations. Notification should be sent to:

~~State Auditor's Office~~
~~Clerk of the Bureau~~
~~88 E. Broad Street~~
~~P.O. Box 1140~~
~~Columbus OH 43216-1140~~

Send e-mail to AOS at:
http://www.ohioauditor.gov/resources/AOSNotificatons.html

The governing body should obtain an "information retrieval number" (IRN) for the STEM school. IRN's should be obtained from the Ohio Department of Education by writing or sending an E-mail to:

~~Ohio Department of Education~~
~~Policy and Accountability~~
~~Attn: Jeanine Molock, MS 708~~
~~25 S. Front St.~~
~~Columbus OH 43215~~
~~E-mail: Jeanine.Molock@ode.state.oh.us~~

Send e-mail to ODE at:
http://webapp2.ode.state.oh.us/oeds-r/query/default.asp

ACCOUNTING AND REPORTING

A STEM school is required by Ohio Rev. Code Section 3326.21(B) to account for its financial transactions in the same manner as all Ohio school districts.

The STEM school should use the Uniform School Accounting System (USAS) and the Education Management Information System (EMIS) chart of accounts. The treasurer of the STEM school should use, at a minimum, the required USAS/EMIS dimensions and codes to record the financial transactions of the STEM school.
Each STEM school is to be accounted for separately. Each STEM school must have a complete set of financial records including, but not limited to those listed in Ohio Admin. Code Section 117-2-02, such as:

- Its own checking and other bank accounts
- Its own federal and state tax identification numbers
- Its own checks and other financial documents, such as purchase orders
- Its own reconciliations and control totals.
- Cash receipts records
- Cash disbursements records
- Capital asset records
- Other records necessary to enable the school to prepare an annual report that conforms to GAAP

The fiscal year of each STEM school begins on July 1 and ends on June 30. The financial activity of each STEM school should be reported in accordance with Generally Accepted Accounting Principles (GAAP, pursuant to Ohio Admin. Code 117-2-03(B)) and submitted annually within 150 days from the close of the fiscal year to the State Auditor's Office, Local Government Services Section.

INTERNAL CONTROLS

The management of each STEM school is responsible for the design and implementation of an internal control system that provides reasonable assurance of the integrity of its financial reporting, the safeguarding of its assets, the efficiency and effectiveness of its operation, and its compliance with applicable laws, regulations and contracts.

In designing its internal control system, management should consider policies and procedures that provide for the following:

- Appropriate authorization and approval of transactions
- Adequately designed records to facilitate classification and summarization of transactions
- Security of assets and records
- Periodic reconciliations of account balances
- Periodic verification of assets

Ohio Compliance Supplement *Implementation Guide*, Exhibit 5, Matrix 3 lists audit compliance tests for STEM schools.

LEGAL COMPLIANCE

Under Generally Accepted Government Auditing Standards (GAGAS), auditors are required to identify and test compliance with direct and material laws and regulations that may have a material effect on the financial statements. Ohio Rev. Code Ch. 3326 sets forth numerous sections of the code with which STEM schools must comply. ~~The Auditor of State's Office is in the process of identifying which of these laws will be considered direct and material to the financial statements and therefore subject to testing during the audit.~~

STEM schools are not mandated to budget, appropriate, encumber, or obtain the fiscal officer's certification for expenditures. It is strongly recommended, however, that STEM schools implement all of these procedures and establish appropriate internal budgetary controls. It is recommended that a STEM school have a budget addressing both revenues and expenditures approved by its governing body.

AUDITS

All STEM schools are subject to the annual auditing requirement established in Ohio Rev. Code Section 117.113. The Auditor of State's office will perform an audit in accordance with generally accepted government auditing standards for each fiscal year of operation of all STEM schools.

TUITION

Ohio Rev. Code Section 3326.50 prohibits a STEM school from charging tuition for any student enrolled in the school. Any money required to be paid or parent services required to be rendered as a condition of enrollment, over and above that allowed by a public school, is considered tuition. As public schools are prohibited from requiring parents to contribute their time as a condition of enrollment and are prohibited from charging for textbooks (which is different from charging for "instructional fees"), the Auditor of State's Office considers both to be tuition.

QUESTIONS

If you have any questions about this Bulletin, please contact the ~~Audit Division of the Auditor of State at (800) 282-0370~~.

your regional Auditor of State's office.

Mary Taylor, CPA
Auditor of State

Mary Taylor, CPA
Auditor of State

Bulletin 2008-005

Auditor of State Bulletin

Date Issued: May 29, 2008

TO: **City Auditors, Finance Directors and Treasurers**
County Auditors
County Engineers
Township Fiscal Officers
Township Administrators
Village Clerks, Treasurers and Finance Directors
Village Administrators

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: Bridges on the State Highway System within a Municipal Corporation

The Auditor of State's Office provided guidance on the reporting of infrastructure by Ohio cities and counties in Bulletin 2001-008. The Bulletin indicated that bridges on the State Highway System within a municipal corporation were to be reported by the county based on the county's responsibility for their construction and maintenance. It also indicated that the reporting responsibility for lift bridges on a state highway within a municipality was split among cities, counties, villages and the State. The purpose of this Bulletin is to update this guidance based on recent changes in the Ohio Revised Code.

REVISED CODE CHANGES

Sections 5501.49 and 5591.02, Revised Code were modified in H.B. 67 of the 127th General Assembly to read as follows:

5501.49 (Eff. 07/03/2007)

(A) The director of transportation is responsible for the construction, reconstruction, major maintenance and repair, and operation of all ~~lift~~ bridges located on the state highway system within a municipal corporation. ~~The responsibilities of the director pertain only to those lift bridges necessary for the initial construction or continued operation of the state highway system~~. The ~~county or other person~~ public entity responsible for maintaining the pavements and sidewalks on either end of the bridge is responsible for the routine maintenance of all ~~lift~~ bridges located on the state highway system within the municipal corporation~~, unless other arrangements have been made between the county and the municipal corporation to perform the routine maintenance~~.

(B) The director may enter into an agreement with the legislative authority of a municipal corporation or a county, upon mutually agreeable terms, for the municipal corporation or county

to operate and perform major maintenance and repair on any ~~lift~~ bridge located on the state highway system within the municipal corporation or county.

(C) The director is not required to obtain the consent of a municipal corporation prior to the performance of any ~~lift~~ bridge maintenance and repair. Except in an emergency, the director shall give a municipal corporation reasonable notice prior to the performance of any work that will affect the flow of traffic. No utilities, signs, or other appurtenances shall be attached to a ~~lift~~ bridge without the prior written consent of the director.

(D) As used in this section:
(1) Major and routine maintenance and repair relates to all elements of a ~~lift~~ bridge, including abutments, wingwalls, and headwalls but excluding approach fill and approach slab, and appurtenances thereto.
(2) "Major maintenance" includes the painting of a ~~lift~~ bridge, and the repair of deteriorated or damaged elements~~, including~~ of bridge decks, including emergency patching of bridge decks, to restore the structural integrity of a ~~lift~~ bridge.
(3) "Routine maintenance" includes without limitation, clearing debris from the deck, sweeping, snow and ice removal, minor wearing surface patching, cleaning bridge drainage systems, marking decks for traffic control, minor and emergency repairs to railing and appurtenances, emergency patching of deck, and maintenance of traffic signal and lighting systems, including the supply of electrical power.
(4) "Operation" relates solely to lift bridges and to those expenses that are necessary for the routine, daily operation of a lift bridge, such as payroll, workers' compensation and retirement payments, and the cost of utilities.

5591.02 (Eff. 07/03/2007)

~~Except as provided in section 5501.49 of the Revised Code, the~~ The board of county commissioners shall construct and keep in repair all necessary bridges in municipal corporations on all ~~state and~~ county roads and improved roads ~~which~~ that are of general and public utility, running into or through the municipal corporations, and that are not on state highways.

NEW RESPONSIBILITIES

The statutory revisions now place the responsibility for the construction and major maintenance for all bridges on State highways within municipalities on the State. Based on these changes, the State will report these bridges as part of the State's infrastructure beginning in the annual report for fiscal year 2008. Local governments affected by these changes should eliminate these bridges from their annual reports for 2007.

NOTICE FROM ODOT

The Ohio Department of Transportation is in the process of sending a notice of these changes to the affected local governments. Included in this notification is the Department's recognition that the State is also responsible for the major maintenance of bridges over State routes inside a municipality when the bridge was built for the grade separation of the two systems.

REPORTING THE CHANGE

The elimination of these bridges from local governments' annual reports will result in losses for bridges that are not fully depreciated. Losses resulting from this change should be reported on the Statement of Activities in the General Government program. (Language updated based on AOS Bulletin 2008-007.) Note disclosure when the losses are substantial may be included in the Capital Assets note indicating that responsibility for the construction and major maintenance of these bridges has been shifted by a statutory change from the local government to the State.

QUESTIONS

If you have any questions about this Bulletin, please contact the Local Government Services Division of the Auditor of State at (800) 345-2519.

Mary Taylor, CPA
Auditor of State

Mary Taylor, CPA
Auditor of State

Bulletin 2008-007

Auditor of State Bulletin

Date Issued: **June 6, 2008**

TO: **City Auditors, Finance Directors and Treasurers**
County Auditors
County Engineers
Township Fiscal Officers
Township Administrators
Village Clerks, Treasurers and Finance Directors
Village Administrators

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: **Bridges on the State Highway System within a Municipal Corporation (Correction to AOS Bulletin 2008-005)**

The Auditor of State's Office recently provided guidance on the reporting of bridges on the state highway system within a municipal corporation in Bulletin 2008-005. The Bulletin indicated that bridges on the state highway system within a municipal corporation would be reported by the State beginning with the State's report for the 2008 fiscal year. The Bulletin asked local governments affected by the change to remove these bridges from their report for 2007. Several governments have indicated the difficulty of making this change for 2007 given how close they are to the deadline for filing their Comprehensive Annual Financial Reports.

The Auditor's Office has been responding to this concern by pointing out that the change in reporting would only be required for 2007 if the change has a material effect on the financial statements. If not, then implementing it for 2008 would be acceptable.

CORRECTION

The Bulletin indicated that any loss on the elimination of the bridges from a local government's report should be reported as a program expense in the program in which the expenses for bridge construction, maintenance and repair are reported**.** This is not the case; the loss should be reported in the General Government program expense classification.

QUESTIONS

If you have any questions about this Bulletin, please contact the Local Government Services Division of the Auditor of State at (800) 345-2519.

Mary Taylor, CPA
Auditor of State

Mary Taylor, CPA
Auditor of State

Bulletin 2009-002

Auditor of State Bulletin

Date Issued: **February 2, 2009**

TO: **School District Treasurers**
Independent Public Accountants

FROM: **Mary Taylor, CPA**
Auditor of State

SUBJECT: **Reporting Federal Student Loans – Adult Education**

School districts and educational service centers (Schools) with adult education programs may receive federal financial assistance through the ~~Federal Family Education Loans (FFEL) Program (CFDA # 84.032) and~~ Federal Direct Student Loans (Direct Loan) Program (CFDA # 84.268). This bulletin explains how Schools receiving these federal loans should (1) report these loans on their Federal Awards Expenditures Schedules, (2) account for them, and (3) report them in GAAP financial statements.

Note: The federal government no longer offers FFEL loans. New loans are made under the direct program, 84.268.

Background Information

It is important to remember that the loan is between a lender and a student (or their parents), not between the lender and a School. The loan amount may include more than the tuition cost, which belongs to and is payable to the student. The School is often acting as a fiscal agent on behalf of the student for these loans.

The federal gov is the lender in the direct loan program.

The ~~FFEL and~~ Direct Loan programs make ~~interest-subsidized or unsubsidized Stafford loans to~~ students or PLUS loans to parents of dependent students to pay the cost of attending postsecondary educational institutions, including school districts and educational service centers. ~~Eligible lenders (banks, savings and loan institutions, etc.) make FFEL loans, which state or not-for-profit guaranty agencies insure.~~ The federal government reinsures loans guaranteed by the guaranty agencies. The Secretary of Education makes Direct Loans. The Schools must certify the borrower's eligibility to receive the funds (i.e. loan proceeds) for both programs.

Guidance for Reporting in Federal Award Expenditure Schedules

OMB ~~Circular A-133~~ Compliance Supplement Part 5, ~~Section III(C)~~ states, "a disbursement of funds occurs on the date an institution credits a student's account [i.e. recognizes tuition revenue as described later] or pays a student or parent directly with either Student Financial Assistance (SFA) funds or its own funds."

The following table describes common federal student loan distribution methods:

Now included in the *cash management* guidance from the student financial asisistance cluster.

Loan Distribution Methods
1. The lender deposits the money directly in the School's bank account via EFT and the School distributes the appropriate amounts to the adult education program as tuition and any additional amount to the student.
2. The lender sends a check to the School made payable to the borrower (student or parent) or copayable to the School and the borrower requiring the signature of both.

Regardless of the loan distribution method, the Federal Awards Expenditure Schedule (the Schedule) should report amounts received and disbursed as described in the *Guidance for Recording Loans in the Accounting Records and in External Financial Statements* below.

The U.S. Department of Education's website indicates ~~both~~ Direct Loan ~~and FFEL loans~~ will be paid through the School in at least two installments. The loan money must first be applied to pay for tuition and fees, and other allowable school charges. If additional loan money remains, the School pays the student by check or in cash, unless the student gives the School written authorization to hold the funds until later in the enrollment period.

Schools must report all Direct Loan program disbursements and submit required records to the Direct Loan Servicing System via the Common Origination and Disbursement (COD) within 30 days of disbursement. Each month, the COD provides Schools with a School Account Statement data file which consists of a Cash Summary, Cash Detail, and (optional at the request of the school) Loan Detail records. The School should periodically reconcile these records to its financial (i.e. fund) records. Independent Auditors can use the monthly reports and related reconciliations to help substantiate the receipts and disbursements of the Direct Loan program.

We assume the student loan monies under these programs are provided to the students/parents through the Schools. We assume that any loans students receive for which the School receives no notification are not federal loans issued under the FFEL or Direct Loan Programs and therefore Schools should not report them on their Schedules.

Federal Uniform Guidance, §200.510

Per ~~OMB Circular A-133, Subpart C, Section .300(a),~~ Schools are responsible for identifying and accounting for student loans issued under CFDA ~~#84.032 and~~ #84.268. The Schools must maintain sufficient documentation to enable them to report the amounts on their Schedules.

<u>Monies Returned to Lenders or to the Federal Government</u>:

There are instances (such as when a student withdraws) in which the School must return student loan monies to ~~the lender in the case of FFEL Loans or to~~ the federal government in the case of Direct Loans. In these cases, the Schools must return the unearned portion of the loans as described below. Schools should exclude receipts and disbursements related to material returns from its Schedule.

Additional info re: COD is available at: https://ifap.ed.gov/eannouncements/attachments/0329FAQCODAttach.pdf

Guidance for Recording Loans in the Accounting Records and in External Financial Statements

Recording the transactions in cash-basis accounting records

- Schools should record gross "loan proceeds" in its agency fund (USAS Fund 022) as follows:
    - Establish a special cost center in Fund 022
        - One cost center is sufficient, although the School must keep track of each student's loan receipts, disbursements, and cash balance
    - Record Direct Loan proceeds as *restricted grants in aid received directly from federal government* (USAS Code 4210)
    - ~~Record the proceeds of FFEL loans received from lenders other than the federal government as *restricted grants-in-aid received from federal government through other intermediate sources* (USAS Code 4239)~~
    - Also record Direct ~~and FFEL~~ loan proceeds as *receipts* of the Direct or FFEL Federal programs on the Federal Awards Expenditure Schedule
    - Record all agency fund disbursements from this special cost center as described below

- When the School provides the educational service:
    - Record an agency fund *other miscellaneous use of funds* disbursement (USAS Function 7900, Object 942).
        - Also record these agency fund payments as disbursements from the Direct ~~or FFEL~~ programs on the Federal Awards Expenditure Schedule.
    - Record the same amounts as *tuition* (USAS Code 1239) in the Adult Education Fund (USAS Fund 012).

- If the "loan proceeds" exceed the amount of the tuition and allowable fees, Schools should disburse the excess amounts remaining in the agency fund to the borrower (student or parents) and record the disbursement as *other miscellaneous use of funds* (USAS Function 7900, Object 942).
    - Also record these agency fund payments as disbursements from the Direct ~~or FFEL~~ programs on the Federal Awards Expenditure Schedule.

- If the School must return monies to ~~lenders in the case of FFEL Loans or to~~ the federal government in the case of Direct Loans:
    - For loan proceeds remaining in the agency fund:
        - If returned in the same fiscal year in which recorded as a receipt, record the amount returned to the lender as a reduction in receipts (i.e. reduce receipts recorded to USAS Codes 4210 or 4239 as applicable).
            - Note this entry would also properly reduce the amount reported as receipts in a School's Federal Awards Expenditure Schedule.

- If returned in a fiscal year subsequent to the year in which recorded as a receipt, record the amount returned to the lender as a *refund of prior year* receipts (USAS Function 7500, Object 930)

- If the loan proceeds have been paid to the Adult Education Fund and recorded as *tuition* receipts:
  - If returned in the same fiscal year in which recorded as a receipt, record the amount returned to the lender as a reduction in *tuition* receipts
  - If returned in a fiscal year subsequent to the fiscal year in which recorded as a receipt, record the amount returned to the lender as a *refund of prior year receipts* (USAS Function 7500, Object 930)

Reporting these transactions in GAAP financial statements

Agency funds report only their assets and liabilities in basic GAAP statements. For these loans, the only agency fund asset is loan proceeds (i.e. cash) the School is holding, with an offsetting liability to the student. If the School prepares a *combining statement of changes in assets and liabilities* for its agency funds (as is required in comprehensive annual financial reports), the agency fund should report *additions* and *reductions* when it receives and disburses cash.

Full accrual statements should record *tuition* revenue (an exchange transaction) when the School provides educational services.

Schools should reclassify any cash recognized as *tuition* in the Adult Education Fund prior to providing educational services as *deferred* ~~*revenue*~~.

Deferred inflow or *unearned revenue*. See GASBS 63 & 65.

If a School classifies its adult education fund as a governmental fund, it should follow the modified accrual-basis. The accounting is the same as described in the preceding two paragraphs, except the School should defer (as a liability, rather than recognize revenue) any tuition earned but received after the *available* period.

Other Single Audit Considerations:

~~Both the FFEL and~~ the Direct Loan programs are part of the Student Financial Aid Cluster as designated by the Office of Management and Budget. As mentioned above, Schools are responsible for determining and reporting the amounts of the awards on their Federal Awards Expenditures Schedules. Auditors are responsible for testing the completeness and accuracy of amounts reported on the Schedule. Auditors are also responsible for including the expenditures of these loan programs in their major program determinations in accordance with OMB Circular A-133. If auditors determine the Student Financial Assistance Cluster is a major program, they should audit the program's compliance. AOS staff must use the Student Financial Assistance (SFA Cluster) Federal Award Compliance Control Record (FACCR) available on the Auditor of State website as their audit program for these loans. IPA's may use the FACCR or comparable documentation.

You can find the FACCR at:
~~http://www.auditor.state.oh.us/LGS/Publications/AuditorsForms/AuditForms/faccrs.htm~~.

Questions:

If you have any questions about this Bulletin, please contact the Accounting & Audit Support Division of the Auditor of State at (800) 282-0370.

Updated FACCR link: http://www.ohioauditor.gov/references/practiceaids/faccrs.html

Mary Taylor, CPA
Auditor of State

Mary Taylor, CPA
Auditor of State

Bulletin 2009-004

Auditor of State Bulletin

Date Issued: **March 2, 2009**

TO: **Municipalities**
Townships
County Commissioners
Independent Public Accountants

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: **Audit and Financial Reporting Requirements for Joint Economic Development Districts**

in this bulletin, "JEDD" also includes Joint Economic Development Zones (JEDZ) formed per ORC 715.691.

Overview

This bulletin describes communications we require for Joint Economic Development Districts (JEDD), as well as certain JEDD activity financial reporting considerations.

Ohio Rev. Code Sections 715.70 through 715.83 govern the creation and operation of JEDD.

These Sections permit one or more townships and one or more municipalities to contribute resources for cooperative economic development and / or to provide services such as water and sewer utilities. These Sections also authorize JEDD to levy a district-wide income tax.

For *example*, a township may have a nonresidential (i.e. business) area needing water and sewer utilities and an adjoining municipality may have water and sewer utilities. Establishing a JEDD is one method by which a municipality can extend its utility services into a township.

JEDD Organization

four

There are ~~three~~ statutory methods under which JEDD may organize:

- Ohio Rev. Code Section 715.70 or 715.71[1], or
- Ohio Rev. Code Sections 715.72 through .81

Or Joint Economic Development Zones formed per ORC 715.691.

These ~~three~~ methods have many similarities, but obviously are not identical. JEDD and their auditors should refer to the applicable Revised Code sections and the organizational *contract*[2]

[1] ORC 715.70 and 715.71 apply mainly to JEDD created in charter counties. As of this date, only Summit County has adopted a charter.
[2] Ohio Rev. Code Sections 715.70(B)(1), 715.71(B) or 715.72(C) describe these contracts for each of the three organizational methods.

creating JEDD when determining financial reporting, fund, and contract- compliance auditing requirements.

Information the Auditor of State Requires

The Ohio Revised Code requires each JEDD to submit the following information to the Auditor of State:

- Notification of the creation of a JEDD
- An unaudited annual financial report from each JEDD

The following explains these requirements.

Ohio Rev. Code 117.10 requires each public office to notify the Auditor of State within 30 days of its creation.

Though some JEDD may have existed for a number of years, we request that each municipality or township participating in a JEDD contact their regional state auditor's office[3] and inform our office of the JEDD's existence, and the nature of its financial activities.

~~Our regional office will then determine the required auditing for each JEDD's activity.~~

~~We recognize that we may already be auditing much of the significant JEDD financial activity. For example, we already audit municipalities collecting and disbursing income taxes a JEDD levied. We will not require duplicative audits of these activities, but we request municipalities or townships notify us to help us assure we are aware of JEDD financial activity.~~

Each JEDD must also file an unaudited annual report with the Auditor of State, per Ohio Rev. Code Section 117.38. See Auditor of State Bulletin ~~2008-001~~ for more information about Ohio Rev. Code Section 117.38.

- JEDD annual reports should include receipts and disbursements from their own cash accounts
- JEDD annual reports should also include JEDD-levied income taxes
  - Though a municipality collects and distributes the tax, the JEDD levy the taxes and should report them as *tax* receipts and *intergovernmental* disbursements in their annual reports.

guidance is now in Bulletin 2015-07.

Fund Requirements for Member Municipalities and Townships

[3] ~~You can find your regional Auditor of State Office's phone number at our website: www.auditor.state.oh.us Click on *Auditor's Office*, then *Audit Division*. The regional office links on the Audit Division page show the counties each regional office serves.~~

See *JEDD Reporting*, later in this Bulletin.

Please refer to the Resources/AOS Notifications tab on the website at: www.ohioauditor.gov

- If a municipality or township receives JEDD income taxes, or other amounts these governments may use for purposes sufficiently broad that the tax (or other receipt) is essentially unrestricted, the government should record the receipts in its general fund.
    - Municipalities or townships receiving JEDD income taxes should classify these amounts as *intergovernmental receipts* rather than as *taxes*, because the JEDD levies the tax rather than the municipality or township.

- Municipalities collecting and distributing JEDD income taxes should record amounts they receive and remit to other JEDD participants (or to the JEDD itself) in an agency fund.

- A municipality may provide water, sewer, electric, or other utility services to the JEDD "area" pursuant to Ohio Rev. Code Section 715.74. This activity should not require new funds if it merely extends the municipality's existing utility services. The municipality's existing utility funds are normally adequate to segregate cash received, disbursed or held for utility services.

- If municipalities or townships receive cash from the JEDD with substantive restrictions the JEDD imposes on its use, they should establish separate funds in their accounting system to segregate these amounts.
    - Establishing separate funds may require written permission from the Auditor of State. *See* Ohio Rev. Code Section 5705.12 and Ohio Compliance Supplement (OCS) Step ~~1-24~~. You can view the OCS under the *Publications* link at the Auditor of State's website: www.auditor.state.oh.us

Currently in OCS step 1-4.

Auditing JEDD Activity

We will not require auditors of member townships or municipalities to test compliance with the organizational requirements of the Ohio Rev. Code. Instead, audit testing should focus on whether the member municipalities and townships have complied with terms of the *contract* relating to whether these governments are meeting their respective significant economic / financial requirements.

For example, Ohio Rev. Code Sections 715.70(D)(1), 715.71(F) and 715.74(A) include virtually identical language summarizing allowable financial activity. For example, Ohio Rev. Code Section 715.74(A) states:

> The contract creating a joint economic development district shall provide for the amount or nature of the contribution of each contracting party to the development and operation of the district and may provide for the sharing of the costs of the operation of and improvements for the district. The contributions may be in any form to which the contracting parties agree and may include, but are not limited to, the provision of services, money, real or personal property, facilities, or equipment. The contract may provide for the contracting parties to share revenue from taxes levied on property by one or more of the contracting parties, if those revenues may lawfully be applied to that purpose under the legislation by which those taxes are levied. The contract shall specify and provide for new, expanded, or additional services, facilities, or improvements. The

contract may provide for expanded or additional capacity for or other enhancement of existing services, facilities, or improvements.

Audit steps related to the above would include:

- Obtaining evidence that the municipality and township is meeting its contractual "contribution" requirements in material respects.
  - If a government has fulfilled its contribution / obligations, retain audit documentation supporting this fact in the permanent file.

- Obtaining evidence that a municipality collecting and distributing JEDD income taxes pursuant to Ohio Rev. Sections 715.70(F)(5), 715.71(G), or 715.74(C)(2), did collect and distribute these taxes to the participating governments in accordance with the contract.
  - This step only applies to audits of a municipality responsible for collecting these taxes.

- Determine whether participating governments' accounting systems adequately segregate restricted resources (if any) received and disbursed pursuant to the contract. (See guidance about establishing funds in the *Fund Requirements* section above.)

- Obtain evidence supporting whether the municipality or township disbursed restricted resources (if any) for purposes the contract authorizes in material respects.

JEDD Reporting and Disclosure

GAAP governments (e.g. cities) or OCBOA governments should follow GASB 14 reporting and disclosure requirements for JEDD in which they participate. For example, a JEDD contract may create a *joint venture* or *jointly-governed organization*. GAAP governments and their independent auditors should determine the proper application of GASB 14 for JEDD in which they participate.

Other governments should briefly disclose the following in their notes:

- The government's participation in a JEDD.
- Significant services / facilities / improvements / enhancements, etc. provided under the JEDD contract.
- The government's significant financial obligations (i.e. contributions, if any) under the JEDD.
- Disclose income taxes a government receives pursuant to a JEDD contract.
- Any other significant financial provisions of the contract.

your regional Auditor of State's office.

Questions and Comments

If you have any questions regarding this Bulletin or the financial reporting requirements, please contact ~~the AOS Accounting & Auditing Support Section at (800) 282-0370~~.

Also, often a municipality (or other government) is "merely" the fiscal agent for a legally-separate JEDD. In these cases, the fiscal agent should report the JEDD's cash activity in an agency / custodial fund. The JEDD should also report this activity in its own statements using the proper fund(s).

Mary Taylor, CPA
Auditor of State

Mary Taylor, CPA
Auditor of State

Bulletin 2010-001

Auditor of State Bulletin

Date Issued: **March 4, 2010**

TO: **County Auditors**
County Commissioners
County Boards, Offices and Commissions

FROM: **Mary Taylor, CPA**
Ohio Auditor of State

SUBJECT: **County Auditor Liability**

This Bulletin addresses county auditor liability in the context of an audit in light of Ohio Attorney General Opinion 2009-033. Specifically, this Bulletin replaces Auditor of State Technical Bulletin 2008-006, and only addresses county auditor liability in the context of a finding for recovery issued under Ohio Revised Code § 117.28.[i]

The Ohio Attorney General, in Opinion 2009-033, explains that a county auditor may incur liability where he acts in bad faith or with a corrupt motive, such as where he converts public funds to his own or another's personal use or commits fraud. Additionally, a county auditor may incur liability when issuing a warrant in payment of an expenditure if the expenditure violates an existing constitutional, statutory, or administrative position.

Additionally, Ohio Revised Code § 9.39 provides that "all public officials are liable for all public money received or collected by them or by their subordinates under color of office." A county auditor could, therefore, be liable under this provision if funds physically kept in his/her office, such as petty cash, cannot be accounted for.[ii]

The duties of a county auditor and limited exceptions to county auditor liability, as recognized in the course of an audit, are outlined below.

Duties of a County Auditor

Ohio Revised Code § 319.02 requires the county auditor to obtain a bond conditioned on the auditor's faithful performance of his/her duty:

> Before entering upon the discharge of the duties of his office, the county auditor shall give a bond signed by a bonding or surety company authorized to do business in this state and to be approved by the board of county commissioners… in a sum of not less than five thousand nor more than twenty thousand dollars, as the board requires, conditioned for the faithful discharge of the duties of his office. The expense or premium for such bond shall be paid by the board and charged to the general fund of the county. Such bond, with the oath of office required by sections 3.22 and 3.23 of the General Code, and Section 7 of Article XV, Ohio Constitution, and the approval of the board indorsed upon it shall be deposited by such board with the county treasurer, who shall record and carefully preserve it.
>
> If an auditor-elect fails to give bond and take the oath of office, as required by this section, on or before the day on which he is required to take possession of his office, such office shall become vacant.

We recommend county auditors and commissioners periodically review the bond amount, to guarantee that it is sufficient for the needs and operation of the county.

The county auditor is responsible for the issuance of warrants under Ohio Revised Code § 319.16. This section provides that:

> The county auditor shall issue warrants . . . on the county treasurer for all moneys payable from the county treasury, upon presentation of the proper order or voucher and evidentiary matter for the moneys, and keep a record of all such warrants showing the number, date of issue, amount for which drawn, in whose favor, for what purpose, and on what fund. The auditor shall not issue a warrant for the payment of any claim against the county, unless it is allowed by the board of county commissioners, except where the amount due is fixed by law or is allowed by an officer or tribunal, including a county board of mental health or county board of mental retardation and developmental disabilities, so authorized by law.

Ohio Revised Code § 319.16 describes how a county auditor should handle a request for payment which the auditor believes to be improper:

> If the auditor questions the validity of an expenditure that is within available appropriations and for which a proper order or voucher and evidentiary matter is presented, the auditor shall notify the board, officer, or tribunal who presented the voucher. If the board, officer, or tribunal determines that the expenditure is valid and the auditor continues to refuse to issue the appropriate warrant on the county treasury, a writ of mandamus may be sought.

Accordingly, a county auditor is statutorily required to verify an expenditure prior to issuing a warrant. This may necessitate further questions or requests for documentation by the county auditor.

Exceptions to a County Auditor Being Named in a Finding for Recovery

The following examples outline instances where a county auditor will not be named in a finding for recovery:

- Documented objection in writing by a county auditor to the official who requested payment. For example, if an official requests payment and the county auditor questions the validity of such expenditure, the county auditor should document the objection in writing. If, despite the concerns of the county auditor, the official believes that the amount should be paid, the official should send the order to pay in writing. If the county auditor issues payment upon receipt of the order to pay, he/she will not incur audit liability. However, the official requesting the payment will be named in a finding for recovery for any illegal expenditure which results from his/her approval.

- Findings For Recovery Repaid Under Audit - any amount repaid prior to the release of an audit will name only the individual who improperly received public money and not the county auditor.

- Where a county auditor proceeds to issue a warrant in reliance on a well-reasoned legal opinion.

Audit Implication and Example

The example below demonstrates a common scenario where a county auditor is named in a finding for recovery:

Example

> Bob Smith, Deputy Sheriff, is compensated at a rate of $10/hour. There was a miscalculation in his payroll for the pay period ending January 15, 2008. As a result of this miscalculation, Deputy Smith was overpaid in the amount of $300. Deputy Smith's payroll is approved by Harold Brown, Sheriff, and the warrants are signed by Jim Green, County Auditor.
>
> In accordance with the forgoing facts, and pursuant to Ohio Revised Code §117.28, a Finding for Recovery for public money illegally expended is hereby issued against Bob Smith, Deputy Sheriff, in the amount of $300, and in favor of the County General Fund.
>
> 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 liable for the amount of the expenditure. *Seward v. National Surety Corp.,* 120 Ohio St. 47 (1929); 1980 Op. Att'y 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 liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen.
>
> Accordingly, Harold Brown, Sheriff, Jim Green, County Auditor, and XYZ Bonding Company, Auditor Green's surety, are jointly and severally liable in the amount of $300, and in favor of the County General Fund.

In the above example, the county auditor was held liable because he issued a warrant that was in payment of an expenditure that violated an existing constitutional, statutory or administrative provision.

Questions concerning this bulletin should be addressed to the Legal Division of the State Auditor's Office at (800) 282-0370.

Mary Taylor, CPA
Auditor of State

Please Note – The legal authorities included in or referenced by this AOS technical bulletin may have been changed, and thus may be outdated. Prior to taking any action pursuant to this bulletin, we recommend that you consult with legal counsel in order to ensure compliance with Ohio law.

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[i] This bulletin does not purport to be a comprehensive discussion of all potential liability faced by a county auditor in the performance of his/her duties. Please consult with legal counsel to determine any further liability, outside the context of an audit. *See* OAG 2009-033

[ii] *See* OAG 2009-033.

Mary Taylor, CPA
Auditor of State

Bulletin 2010-003

Auditor of State Bulletin

Date Issued: July 16, 2010

TO: **County Auditors and Treasurers**
City Auditors, Finance Directors, and Treasurers
School District Treasurers
Educational Service Center Treasurers
Township Fiscal Officers
Village Fiscal Officers
Independent Public Accountants

FROM: **Mary Taylor**
Ohio Auditor of State

SUBJECT: **Tax Increment Financing (TIF) & TIF Service Payments**

Summary: There has been an increasing use of tax-increment financing among Ohio governments. This bulletin describes:

- How a typical TIF operates under Ohio law;
- Funds Ohio law may require to account for TIF service payments and TIF activity; and
- Acceptable accounting and financial reporting for cash, budgetary, and GAAP bases.

This bulletin provides general accounting guidance and common examples. While this Bulletin describes common Ohio Revised Code TIF requirements, it is not a substitute for reading a TIF's specific contractual requirements, and the TIF requirements in Ohio Revised Code Chapter 5709. Some TIF agreements may impose additional requirements this Bulletin does not address. Regardless, governments using or contemplating TIF should consult with legal experts to help assure they comply with TIF legal requirements.

Municipalities, townships and counties (TIF governments) can use TIF to finance public infrastructure or certain other assets or services benefitting a TIF district.

- TIF "locks in" real property at its unimproved value for up to thirty years in a defined TIF district.
    - The county continues to assess property taxes on the unimproved value during this period.

- In lieu of additional property taxes on improved values, a TIF government may charge ***service payments***, typically from developers owning parcels within the district, computed on the improvements.

- If a TIF government charges service payments, the Ohio Revised Code requires charging, collecting, and distributing service payments in the same amount and manner as if they were property taxes.

- The TIF government must use service payments to finance public infrastructure costs (e.g. roads, water and sewer lines servicing the TIF district) or to pay for other assets or services a TIF agreement defines.
    - The TIF government may issue debt, payable from future service payments.

- A TIF arrangement may also require a TIF government to allocate some service payments to school districts and other governments, to help offset property taxes these governments would have received had the improvements not been exempted.
    - The remainder of this bulletin refers to these amounts as *compensation* paid to school districts and other governments.

Summary of Ohio Rev. Code sections referenced in this Bulletin
(This is not a comprehensive list of ORC TIF requirements)

Requirement	Municipality	Township	County
Declare parcels in an area to be a TIF district, exempt from taxes on improvements.	5709.40(C) 5709.41(C)	5709.73(C)	5709.78(B)
Assess service payments.	5709.42	5709.74	5709.79
Negotiate compensation with school districts or other governments.	5709.40(D), (E) 5709.41(C)	5709.73(D), (E)	5709.78(C), (D)
Establish a *tax-equivalent fund* to receipt service payments. Generally use the service payments for infrastructure, *certain* debt service and compensation payments.	5709.43	5709.75	5709.80
Service payment liens attach similarly to real property liens.	5709.91	5709.91	5709.91

Summary of a typical TIF Process
The following elaborates on the brief description above. Because TIF arrangements can differ, not all of the following steps will apply to every TIF.

- A property owner (i.e. developer) requests a government to add infrastructure to serve unimproved property parcels in a defined TIF district.
  5705
- If the TIF government agrees with the developer, and plans to exempt more than 75% of the estimated improvements to parcel value, or if the tax abatement will apply for more than 10 years, the TIF government must obtain approval from affected school districts and certain other governments on *compensation* terms. For example, a school district may agree to accept a portion of the service payments as compensation for the likely loss of future property tax increases.

- Because these arrangements are commonly referred to as "holding harmless" the school districts or other governments from the effect of lost property tax increases, these governments are sometimes referred to as *hold-harmless governments*.

- The TIF government passes legislation exempting property in the TIF district from taxes on the developer's improvements for up to 30 years.

- The TIF government and developer enter into a service agreement regarding infrastructure or other assets or services the TIF government will provide.

- The TIF government may pass legislation authorizing debt to pay for infrastructure additions.

  - Sometimes the debt is a general obligation issued under Ohio Rev. Code Chapter 133. Other times, service payments collateralize the debt.

- The TIF government uses service payments or debt proceeds to construct infrastructure so the developer can improve the property.

- The TIF government and developer may enter into a trust agreement whereby a trustee receives service payments from the county, pays debt service and hold- harmless governments' compensation and other defined costs.

- As development occurs, the county assesses service payments on the improvements in the same manner and amount as if the improvements were taxed.

- Under Ohio Revised Code Chapter 5709, developers remit service payments to the county treasurer, who distributes the service payments to the TIF government, to hold-harmless governments, and / or to a trustee (described later) when property taxes are normally distributed.

  - For some TIF, the county remits all service payments collected to the TIF government. In this case, the TIF government must remit compensation per agreement with hold-harmless governments. (When this arrangement exists, it affects the *fund requirements* described later in this Bulletin.)

- The TIF government or trustee pays debt service from service payments.

- TIF governments have certain filing requirements with the Ohio Department of Development. A description of these requirements is beyond this Bulletin's scope. TIF governments should discuss these requirements with legal counsel.

Service Agreement

The service agreement usually identifies the improvements to be made, the developer's obligation for service payments, the use of service payments, and other pertinent information.

Noncompliance with the service agreement may be an event of default materially affecting the determination of financial statement amounts (or disclosures). Therefore, auditors should consider service agreement requirements when designing compliance tests.

Trust Agreement
A TIF government may contract with a bank or other entity to serve as trustee, whereby the county pays service payments to the trustee. The trustee pays for all costs associated with the project including construction, debt principal and interest, arbitrage, etc.

The trust agreement normally specifies the funds required (such as a sinking fund, bond (i.e. capital project) fund, reserve fund, etc.), the permitted investments the trustee may acquire, terms for principal and interest payments, early redemption provisions, application of moneys and other responsibilities.

If a trust agreement requires one or more funds to account for service payments, we would deem theses funds to be *TIF tax-equivalent funds* (discussed below), and therefore not subject to the AOS' consent to establish them.

Auditors should consider whether noncompliance with trust agreements materially affects the determination of financial statement amounts (or disclosures) when designing compliance tests.

Accounting Guidance

Fund Requirements and Classification

Because statutes mandate the funds this section describes, the requirement in Ohio Rev. Code § 5705.12 to obtain the Auditor of State's permission to establish them does not apply.

Tax-Equivalent Fund
As described in the table above, Ohio Rev. Code Chapter 5709 requires TIF governments to establish a tax-equivalent fund by resolution or ordinance, to account for service payment receipts and their disbursement, usually for infrastructure costs or debt service.

The tax-equivalent fund may require classification as ***special revenue***, ***debt service***, or ***capital project***, depending on its predominant activity, and whether TIF debt (if any) is a general obligation vs. collateralized by service payments.

1. If service payments primarily pay debt service, classify it as a ***debt service fund***. [1]

[1] RC 5709.40(H), .75(B) & .81(B) permit paying debt service from the tax-equivalent fund when service payments collateralize the debt.

a. This is appropriate regardless of whether the debt is collateralized by service payments or is a general obligation.[2]
b. In other words, in this circumstance, using one fund satisfies the tax-equivalent fund requirements of Chapter 5709, and the bond retirement fund requirements of Sections 5705.09(C).
c. However, if this fund also accounts for compensation payments (per 4 below), the TIF government may also need another debt service fund in addition to the tax-equivalent ***debt service fund***.

2. GASB staff advised us to classify the tax-equivalent fund as a ***special revenue fund,*** if service payments pay for debt service and infrastructure improvements.

3. If a TIF government does not issue debt, and spends tax-equivalent fund service payments primarily for infrastructure or other TIF assets, classify the tax-equivalent fund as a ***capital projects fund***.

4. We are aware of circumstances where a county distributes service payments *plus compensation payments* to the TIF government as part of property tax distributions. The TIF government must then pay the compensation to the school districts or other governments. If this occurs, the TIF government should receipt and disburse compensation payments in the tax-equivalent fund. The TIF government should classify the fund as ***debt service***, ***special revenue***, or ***capital projects***, depending on the predominant use of the service payments as described in 1 – 3 above.

Requirement for a *Separate* Debt Service Fund

If TIF debt is a *general obligation*, the TIF government must pay debt service from a bond retirement fund (RC 5705.09(C)).

1. The Tax-Equivalent Fund satisfies this requirement if it uses service payments primarily to pay debt service (as described in No. 1 in the preceding Section).
2. However, if:
   a. TIF debt is a general obligation and
   b. The TIF government receives service payments for more than just debt service (such as 2 and 4 above):
      i. We believe RC 5705.09(C) implies debt service payments should not be commingled in the same fund with compensation and / or infrastructure payments. Therefore:
      ii. The tax-equivalent fund should transfer required debt service amounts to a debt service fund established under RC 5705.09(C).[3]

[2] Governments often issue debt collateralized with its full faith and credit (i.e. general obligation debt) *without* levying additional property taxes. A general obligation pledge authorizes a government to levy additional property taxes if other revenue is insufficient to pay the debt. This Bulletin assumes service payments are sufficient to retire the debt without an additional levy.

[3] ~~Appendix A to Ohio Compliance Supplement Chapter 1, *Transfers to Debt Service Funds*,~~ explains why the Auditor of State believes these transfers are not subject to the all the transfer

Transfer guidance now included in Appendix A-1 in the Ohio Compliance Supplement Implementation Guide.

3. Conversely, if the TIF debt is secured only by service payments:
    a. The TIF government can pay the debt directly from the tax equivalent ***special revenue*** or tax equivalent ***debt service*** fund.[4]
    b. And the requirement above to transfer to a separate debt service fund does <u>not</u> apply.

<u>Requirements for a Capital Project (Bond) Fund</u>
If a TIF government issues debt to finance infrastructure or other TIF assets, Ohio Rev. Code Section 5705.09(E) requires the TIF government to establish a separate fund to account for the debt proceeds and their disbursement. TIF governments should classify this as a ***capital projects fund***.

Cash and Investments

Cash-basis and GAAP-basis TIF governments should report amounts trustees hold as assets in their statements, classified as *cash with trustee* (or *cash with fiscal agent*).

If a TIF government remits service payments to its trustee, this is equivalent to moving cash from one bank account to another. TIF governments should not record these remittances as disbursements. Instead, the TIF government should report disbursements when the trustee pays cash on the government's behalf.

Accounting for Cash-Basis Governments' Service Payments

Governments using a cash accounting basis should record all receipts (e.g. service and compensation payments), disbursements (e.g. infrastructure construction costs, debt service, compensation payments, etc.), and *other financing sources* (debt proceeds) related to TIF when received or paid in cash.

GAAP Accounting for Service Payments

Ohio law requires counties to distribute service payments at the same time and in the same manner as real property tax payments. Therefore, GAAP governments receiving service payments (or hold-harmless governments receiving compensation) should accrue it using the guidance below, adopted directly from the *property tax* guidance in Auditor of State Bulletin 2001-004:

> **<u>Asset (i.e. Receivable) Recognition</u>**
> An asset is recognized for *imposed nonexchange transactions*[5] in the period when an enforceable legal claim to the asset arises. . . [For service or compensation payments,] an

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requirements of Ohio Rev. Code Chapter 5705. That is, these transfers *fulfill*, rather than *violate* restrictions on using the service payments.

[4] Remember the tax-equivalent fund is a ***special revenue fund*** if it is paying for both debt service and infrastructure.
[5] Property taxes and service and compensation payments are *imposed nonexchange transactions.* The guidance in Bulletin 2001-004 derives from GASB Cod. N 50, which describes how to account for imposed nonexchange transactions.

Deferred inflow or unearned revenue.

enforceable legal claim exists at June 30 for schools, and at December 31 for cities and counties for the [service or compensation payments] identified below. These amounts would be reported as receivables [and deferred ~~revenue~~] at year-end:

- Schools - at June 30, [2009], the August, [2009] and February, [2010 compensation payments due] . . .

- Cities and counties - at December 31, [2009], the February, [2010] and August, [2010 service or compensation payments due] . . .

Revenue Recognition

The following [service or compensation payments] have been levied, and would be reported as revenue, for the fiscal year ending June 30, [2009] for schools and for the calendar year ending December 31, [2009] for cities and counties, [on both the modified and full-accrual bases]:

- Schools – the [compensation payments] which are scheduled by statute to occur within the fiscal year and which by statute are available for appropriation (August, [2008] and February [2009 compensation payments]), plus any advance against the August, [2009 compensation payments] available from the county auditor on June 30, [2009].

- Cities and counties - the [service or compensation payments] which are scheduled by statute to occur within the calendar year (February, [2009] and August, [2009 service or compensation payments] . . .).

Delinquent [service or compensation payments] from prior years would also be included as a receivable and revenue to the extent they are considered collectible.

Governments that have not previously recorded receivables and deferred ~~revenue~~ for the next year's service (or compensation) payments should do so commencing with their next GAAP compilation. However, they need not describe this change as a *restatement*, because there is no effect on net assets or fund balances.

TIF Governments' Accounting for Compensation Payments

TIF governments should not accrue compensation payments owed to other governments based on the calendar dates above, because:

- A TIF government has no obligation to collect or remit these payments if the county is doing so, and
- A TIF government has no obligation to compensate a hold-harmless government for delinquent service payments.

As explained in the *Fund Types* section above, we are aware of instances where a county remits all service and compensation payments to a TIF government, and the TIF government ***is*** responsible for remitting cash (compensation) to hold-harmless governments.

Now termed "deferred inflow" or "unearned revenue."

- In these instances, the TIF government should not accrue receivables (or deferred ~~revenue~~) for hold-harmless amounts based on the calendar dates described above.
- Instead, the TIF government should debit cash and credit a liability to a hold harmless government ***when it receives cash*** for compensation payments it must pass on to a hold harmless government. Though a TIF government is acting in an agency capacity for these payments, the TIF government should account for these payments in its tax-equivalent fund, and classify this fund using the *Fund Types* guidance in this Bulletin.

Revenue Classification When Following GAAP or an *Other Comprehensive Basis of Accounting*

Statements of Activity prepared using GAAP or an OCBOA (See Auditor of State Bulletin 2005-002) should classify service or compensation revenue as *general revenue*.[6]

GAAP Restatements for Service Payments

We are aware that during 2009, some GAAP governments accrued a long-term receivable for the sum of future service or compensation payments. This section applies only to these governments.

Because of the approximate equivalence of developers' service payments to the cost of infrastructure or other assets or services provided to a TIF district, service payments do have characteristics of an *exchange* transaction, which suggests accruing a long-term receivable as a TIF government constructs infrastructure, computed as the discounted sum of future service payments

However, we discussed this with the GASB's staff, who concluded service and compensation payments are *imposed nonexchange transactions* (i.e. are essentially similar to the property taxes they replace).

Therefore, preparers who accrued long-term service or compensation payments receivable should restate the opening balances of next year's statements to remove this asset.

Because service payments do have similarities to exchange transactions, we do not believe auditors must deem restatements arising from adopting this Bulletin's accounting guidance to indicate inadequate judgment representing control deficiencies.
However, audit opinions should include an explanatory paragraph referring to notes summarizing the changes, *if material*, because this represents a misapplication of GAAP, per AU 420.12.
Notes to the financial statements should disclose the nature and justification for the change and disclose the restated fund balances / net assets.

Income Tax Sharing for GAAP Governments

Under Ohio Revised Code Section 5709.82, TIF governments may pay a portion of their income taxes collected within the TIF district to school districts.

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[6] Guidance derived from GASB *Comprehensive Implementation Guide* questions 7.34.8, 7.35.5 and 7.35.8.

- TIF governments should not change their current policies for recognizing income tax receivables and revenue.

- However, these TIF governments should report income taxes due to the school district as an intergovernmental expense / expenditure and liability to the school in full-accrual statements (e.g. entity wide statements) as the related income is earned.[7]
    - For example, if a TIF government estimates that 5% of total income taxes receivable are payable to a school district, then the TIF government should record an intergovernmental expenditure / expense for amounts payable to the school district, and should credit a payable equal to 5% of its year-end receivable.

- If a TIF government did not previously report the expense / expenditure / liability the preceding bullet describes, ***and*** if the amount is significant to expenditure / expenses, or fund balance / net assets, TIF governments should restate opening fund balance / net assets for amounts that should have been accrued as of the prior year end.
    - If the amount is not material, do not restate opening balances. Instead, record the change as part of the intergovernmental expense.

- School districts should record an intergovernmental receivable and revenue on both full and modified-accrual statements equal to the intergovernmental payable the TIF government reports.
    - This may require contacting the TIF government for information about this entry, based on the TIF government's best estimate of amounts owed but unpaid as of June 30.
        - Alternatively, the school district might reasonably estimate this receivable based on prior payments, etc.
    - If a district did not previously report this asset, ***and*** if it is material to beginning or end of year fund balance / net assets or revenue, districts should restate opening fund balances / net assets.
    - If the amount is not material, do *not* restate opening balances. Instead, record the change as part of intergovernmental revenue.

Accounting for Other School TIF Arrangements

We are aware that some school districts have dealt directly with developers. Some of these agreements, for example, exempt improvements from the school's property tax increases in exchange for assets a developer provides. Examples include exchanging vacant land for future school district expansion or promising future development services. We recommend school districts entering into these agreements adopt legislation to clarify the terms and conditions of these arrangements.

These agreements may not be subject to Ohio Rev. Code Section 5709. Some of these agreements may constitute *exchange transactions*, and the accounting described herein would

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[7] Governmental fund (modified-accrual) statements should also follow this guidance, *except* they should record deferred ~~revenue~~ instead of revenue for any receivable amounts not due within the available period.

Now termed "deferred inflow" or "unearned revenue."

not apply. Governments normally recognize exchange transactions when the exchange occurs. However, because of the variety of arrangements, accounting for these transactions requires a case-by-case analysis, and are beyond the scope of this Bulletin.[8]

TIF Debt

GAAP governments should report TIF debt in the appropriate liability caption in its full accrual *statement of net assets*.

- This debt would not normally be a liability in governmental fund statements until due.
- When paying debt service, full accrual GAAP financial statements debit debt service principal payments to reduce the debt liability, and record a *capital and related financing activity* cash flow.

Cash-basis governments should briefly disclose the general nature of their participation in a TIF:

- Include TIF debt in its debt amortization schedule.
- Describe whether the debt is a general obligation, or secured with service payments.
- The approximate amount of service payments to be received in future years to pay this debt.
    - Stating "Future TIF service payments are due from property owners in the same years and for approximately the same amounts as debt service payments," would satisfy this requirement, assuming it is true.

GAAP governments should of course, follow GAAP debt-related display and disclosure requirements. This would include (but certainly is not limited to) the *pledged revenue* disclosure requirement in Codification 2300.122, if service payments collateralize TIF debt.

Budgetary Guidance

Governments must follow all budgetary laws related to TIF activity including the following:

- Governments should include all TIF receipts and disbursements in its Tax Budget (Ohio Revised Code 5705.29)
- Governments should certify service and compensation payments, debt proceeds, and interest earnings in the Certificate of Estimated Resources (Ohio Revised Code 5705.34 to .36)
- Governments should appropriate intergovernmental payments (compensation payments and any income taxes owed to school districts), debt service payments (principal, interest, and fiscal charges), and capital outlay when paid by the TIF government, *or when paid by a trustee*. (Ohio Revised Code 5705.38 to .41)

Questions

[8] Auditor of State financial auditors should discuss accounting for these agreements with the GAAP convertor and with their A&A consultant.

If you have any questions regarding the information presented in this Bulletin, please contact Local Government Services at the Auditor of State's Office at (800) 282-0370.

Mary Taylor, CPA
Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2011-002

Auditor of State Bulletin

Date Issued: **April 15, 2011**

TO: **All Fiscal Officers**

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **Leverage for Efficiency, Accountability and Performance Fund**

Last week I had the privilege of joining Governor Kasich and legislative leaders for the signing of Senate Bill 4. This legislation, requiring performance audits of state agencies, is an important step toward leaner, more effective government.

Equally important was the inclusion – at my recommendation – of the Leverage for Efficiency, Accountability and Performance Fund (LEAP Fund). This $1.5 million fund will advance the costs of a performance audit to state agencies and local governments 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.

Ohioans deserve clean, accountable and efficient governments. Performance audits and the LEAP fund can help make that a reality.

Application Process:

Entities that wish to participate in the LEAP Fund will be required to submit an application to the Auditor of State. ~~Applications are available online and due no later than May 31. Loans will be awarded with the start of the new biennium - July 1, 2011~~.

Selection of participants will be based on a number of factors, including financial need, previous actions taken to reduce costs and improve efficiency, and a commitment to implement the recommendations made in the performance audit. It is anticipated that savings identified through the audit process will enable timely reimbursement of the LEAP Fund.

All selected applicants will be required to sign a letter of arrangement with the AOS. The letter outlines the scope of services to be provided, the timing of the audit, and specific payment terms.

In accordance with the provisions of the legislation, recipients of audits funded through LEAP will receive a statement from the Auditor of State indicating the amount due for services performed, as well as the date on which payment is due. The amount due will include interest on the amount advanced from the LEAP Fund, accrued from the date the audit is completed until the date payment is received by the Auditor of State.

Additional information concerning the LEAP Fund, including the application form and instructions, is available on the Auditor of State's Web site at ~~www.auditor.state.oh.us/LEAP~~ .

https://ohioauditor.gov/performance/leap.html

Dave Yost • Auditor of State

Bulletin 2011-004

Auditor of State Bulletin

Date Issued: **September 29, 2011 – Revised ~~May,~~ 2017 (See edits in strikeout and double underlined font)**

TO: **All Fiscal Officers**

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Governmental Accounting Standards Board Statement No. 54 – Fund Balance Reporting and Governmental Fund Type Definitions**

The Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, introduces five fund balance classifications and clarifies the existing governmental fund type definitions. The fund balance classifications relate to constraints placed upon the use of resources reported in governmental funds. The five classifications are nonspendable, restricted, committed, assigned and unassigned. This bulletin references specific paragraphs from GASB 54.

The GASB included explanatory information related to GASB 54 in their ~~2010 – 2011~~ *Comprehensive Implementation Guide*. The Guide is organized in a question and answer format. This bulletin references specific questions from the 2015-1 Implementation Guide, shown as Z.54.XX (any revisions from 2016-1 are explicitly noted).

The requirements of this Statement ~~are~~ were effective for financial statements for periods beginning after June 15, 2010. ~~Fund reclassifications made to conform to the provisions of this Statement should be applied retroactively by restating fund balance for all prior periods presented. The change in fund balance presentation to the five classifications of fund balance in GASB 54 is not a restatement.~~ [1]

Fund Balance Classifications

Following are the definitions of the five fund balance classifications (these definitions are taken directly from GASB 54):

> Nonspendable Fund Balance The nonspendable fund balance classification includes amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact. The "not in spendable form" criterion includes items that are not expected to be converted to cash, for example, inventories and prepaid amounts. (GASB 54 ¶6 or GASB Cod. 1800.166)[2]

[1] While accurate, this sentence was struck out due to the passage of time since the effective date of the GASB requirements.

[2] GASB Codification references in this document were current as of the date of the revisions to this publication; however they are always subject to change.

Restricted Fund Balance The restricted classification is used when constraints placed on the use of resources are either (a) externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments (i.e., State Statutes); or (b) imposed by law through constitutional provisions (City Charter) or enabling legislation. (GASB 54 ¶8 or GASB Cod. 1800.168)

Committed Fund Balance The committed fund balance classification includes amounts that can be used only for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority. (GASB 54 ¶10 or GASB Cod. 1800.170)

Assigned Fund Balance Assigned fund balance includes amounts that are constrained by the government's intent to be used for specific purposes, but are neither restricted nor committed (GASB 54 ¶13 or GASB Cod. 1800.173).

Unassigned Fund Balance Unassigned fund balance is the residual classification for the general fund. This classification represents fund balance that has not been assigned to other funds and that has not been restricted, committed, or assigned to specific purposes within the general fund (GASB 54 ¶17 or GASB Cod. 1800.177).

Nonspendable Fund Balance

The nonspendable definition addresses two components of nonspendable fund balance – (a) not in spendable form or (b) legally or contractually required to be maintained intact. Items are considered "not in spendable form" if they are not expected to be converted to cash; examples include inventories and prepaid amounts. Long-term loans and notes receivable, as well as property acquired for resale are also considered "not in spendable form." However, if once the receivables are collected or the assets are sold the proceeds are restricted, committed, or assigned, then those amounts should be included in the appropriate fund balance classification (restricted, committed, or assigned) rather than nonspendable fund balance. The principal (or corpus) reported in a permanent fund is an example of an amount that is legally or contractually required to be maintained intact. (GASB 54 ¶6 or GASB Cod. 1800.166)

Restricted Fund Balance

The restricted fund balance definition addresses enabling legislation. GASB 54 defines enabling legislation as follows:

> Enabling legislation authorizes the government to assess, levy, charge, or otherwise mandate payment of resources (from external resource providers) and includes a legally enforceable requirement that those resources be used only for the specific purposes stated in the legislation. Legal enforceability means that a government can be compelled by an external party-such as citizens, public interest groups, or the judiciary-to use resources created by enabling legislation only for the purposes specified by the legislation. (GASB 54 ¶9 or GASB Cod. 1800.169)

In Ohio, municipalities have the ability to enact enabling legislation (i.e., impact fees) while most other local governments (counties, townships, school districts etc.) operate solely within State statute. If legislation is passed to generate revenues for a local government under the authority of State statute, it is not enabling legislation.

Restricted fund balance constraints are externally imposed, typically by way of grant agreements, State statute, and debt covenants. Federal and State grant agreements generally include language placing constraints on the resources, thus restricting the fund balance. Constraints placed on

resources collected under the authority of State statute are identified in the respective section of the Ohio Revised Code. Debt agreements typically stipulate how the debt proceeds may be spent and what resources are to be used for repayment. These constraints are sufficient to restrict fund balance. The charts on the attached pages will assist in identifying when fund balance is restricted.

Local match requirements are bound by the constraints in the grant agreement; thus, if the grant is restricted the local match will be also. (Z.54.8 / Cod. 1800.742-1) The grant agreement or State statute will specify constraints placed on interest earned on restricted resources. If the interest can be used only for the same purposes as the restricted resources, as indicated in the grant agreement or State statute, the interest will also be restricted, otherwise the interest is assigned. (Z.54.9 / Cod. 1800.742-2)

ORC Section 5705.10 (H), states: "Money paid into any fund shall be used only for the purposes for which such fund is established." Therefore, all fund inflows, once recorded in a fund, are to be used for the same purpose as the specific revenue source serving as the foundation of that fund, and fund balance may be limited to one classification, the same as the foundation revenue. Thus, once the foundation revenue of a special revenue fund has been identified and classified as restricted (or committed), other inflows into the same fund are also restricted (or committed). If the foundation revenue ceases to be collected, the same constraints continue to exist. See the special revenue fund definition section of this bulletin.

Committed Fund Balance

Committed fund balance amounts are internally imposed by the governing body. Once an amount is committed, it cannot be used for any other purpose unless the government, by taking the same type of action (resolution or ordinance), removes or changes the constraint. The difference between restricted and committed fund balance is committed fund balance constraints are imposed by the local government, separate from the authorization to raise the underlying revenue, and compliance with constraints imposed by the local government is not considered to be legally enforceable. (GASB 54 ¶11 or GASB Cod. 1800.171) Restricted fund balance constraints are externally imposed or are enacted through enabling legislation and are legally enforceable.

Committed fund balance should also incorporate contractual obligations to the extent that existing resources in the fund have been specifically committed for use in satisfying those contractual requirements. The type of contractual obligations that would meet the committed criteria would be a contract awarded by resolution or through the bid process authorized by resolution of the governing board. Typically, this issue will be limited to the general fund because of its residual (unassigned) fund balance classification.

While an Ohio local government may impose constraints on certain resources and change those constraints prospectively by taking the same action that originally imposed the constraints, redirecting the existing resources (the cash balance of the fund) requires compliance with State statutes for the transfers of money, specifically ORC Sections 5705.14 - 16.

Certain "Charges for Services" and "Fees" have no external constraints; instead the constraints are internally generated by the government's highest level of decision-making authority. To commit the resource, the language in the ordinance/resolution creating the constraint should identify both the revenue source and the constraint. Examples include: charges for services related to swimming pools, parking lots, recreation centers, garbage collections, and transit services. See discussion of "Charges for Services" later in this bulletin.

Assigned Fund Balance

In governmental funds other than the general fund, assigned fund balance is the default classification which represents the remaining amount that is not restricted or committed. The assigned fund balance definition addresses the government's intent. Intent should be expressed by (a) the governing body itself or (b) a body (a budget or finance committee, for example) or official to which the governing body has delegated the authority to assign amounts to be used for specific purposes. (GASB 54 ¶13 or GASB Cod. 1800.173)

The governing body's intent may be expressed by a motion, but not by formal action such as a resolution or ordinance. In other words, a formal legislative process is not needed to add, remove, or modify assigned amounts. In a School District, a board policy indicating intended use of certain fees or charges for services would be considered an assignment. Constraints imposed on the use of assigned amounts are more easily removed or modified than those imposed on amounts that are classified as committed. Some governments may not have both committed and assigned fund balances, as not all governments have multiple levels of decision-making authority. (GASB 54 ¶14 or GASB Cod. 1800.174)

When ~~the~~ an appropriation measure is adopted for the subsequent year, if a portion of existing fund balance is included as a budgetary resource, then that portion of fund balance should be classified as assigned. (GASB 54 ¶16 or GASB Cod. 1800.176 and Z.54.13 / Cod. 1800.744-2) Stated differently, if appropriations (temporary or annual) exceed estimated receipts (not resources), the excess is to be assigned as it uses existing fund balance at year-end. This would be applicable to the general fund as it is the only fund with a positive unassigned fund balance. The determination of the purposes, as well as the amounts for assigned fund balances can be made after the end of the reporting period, so this assignment is not limited to appropriation measures made prior to year end (Z.54.15 / Cod. 1800.743-2).

Unassigned Fund Balance

Unassigned fund balance is the residual classification for the general fund. In governmental funds other than the general fund, the unassigned classification should be used only to report a deficit balance resulting from expenditures exceeding amounts that have been restricted, committed, or assigned. If a deficit exists, there should be no amounts reported in any other fund balance classifications. (GASB 54 ¶19 or GASB Cod. 1800.179 and Z.54.16 / Cod. 1800.746-2)

Unassigned fund balance of the general fund of a blended component unit (reported as a special revenue fund by the primary government) should be reclassified as assigned, committed, or restricted based on the process through which those resources of the component unit could be used for other purposes of the primary government. For example, if the resources of the component unit are restricted to the purposes of the component unit, those resources may be classified as unassigned in the context of the stand-alone financial statement of the component unit but would be considered restricted from the perspective of the primary government. (Z.54.50, as amended by 5.41 in the 2016 IG / Cod. 1800.746-6)

Encumbrances

Accounting for encumbrances will continue; however, reserved for encumbrances will no longer appear on the financial statements. Encumbered amounts will be included in the restricted, committed, and assigned fund balance classifications. (Z.54.27 / Cod. 1800.754-1) Issuing a purchase order assigns the amount of the purchase order to a specific purpose; thus, the outstanding encumbrance amount is included in assigned fund balance, unless the purchase order relates to restricted or committed resources. (Z.54.28 / Cod. 1800.751-2) If resources have already been restricted or committed for encumbrances, the encumbered amounts will be included with restricted or committed resources. Encumbrances cannot further restrict or commit resources.

Stabilization Arrangements

Some governments set aside money in a rainy-day fund, specifying when and how the dollars can be spent. The criteria for the use of the resources should be specific, and the resources should not be expected to be spent routinely. "In an emergency" or to offset "anticipated revenue shortfall" are not specific enough to meet the criteria for restricted or committed. Stabilization amounts should be reported in the general fund as restricted or committed if they meet the criteria for restricted or committed, based on the source of the constraint on their use. Stabilization arrangements that do not meet the criteria to be reported within the restricted or committed fund balance classifications should be reported as unassigned in the general fund.

In Ohio, a taxing authority of a subdivision, by resolution or ordinance, may establish reserve balance accounts to accumulate currently available resources to stabilize its budgets against cyclical changes in revenues and expenditures under ORC Section 5705.13. The criterion for using the budget stabilization is not specific enough to meet the committed criteria and it does not meet the restricted criteria as the budget stabilization is not mandated by State statute. Therefore, a budget stabilization/reserve account should be reported as unassigned in the general fund. While statute also gives the authority to have stabilization reserve accounts in other operating funds, the fund balance is reported as restricted, committed, or assigned and the reserve account does not change the fund balance classification.

Balance Sheet Presentation

On the face of the financial statements, amounts for the two components of nonspendable fund balance may be presented separately or in total. If the financial statements present the total amount, then the separate components should be disclosed in the notes. Specific purpose amounts for restricted, committed or assigned fund balance amounts may be presented on the financial statements or disclosed in the notes. (GASB 54 ¶22 and ¶25 or GASB Cod. 2200.163) The information disclosed in the notes should provide the same level of detail as would be displayed on the face of the financial statements. That is, the disclosure should provide information for the general fund, each major governmental fund, and the nonmajor funds in the aggregate. (Z.54.61 / Cod. 1800.748-2)

Required Note Disclosure

Governments are required to disclose information about the processes through which constraints are imposed on amounts in the committed and assigned classification:

> For committed fund balance: (1) the government's highest level of decision-making authority and (2) the formal action that is required to be taken to establish (and modify or rescind) a fund balance commitment. (GASB 54 ¶23 or GASB Cod. 1800.183)
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> For assigned fund balance: (1) the body or official authorized to assign amounts to a specific purpose and (2) the policy established by the governing body pursuant to which that authorization is given. (GASB 54 ¶23 or GASB Cod. 1800.183)

Governments should also disclose (1) whether the government considers restricted or unrestricted amounts to have been spent when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available, and (2) whether committed, assigned, or unassigned amounts are considered to have been spent when an expenditure is incurred for purposes for which amounts in any of those unrestricted fund balance classifications could be used. (GASB 54 ¶23 or GASB Cod. 1800.183)

Significant encumbrances should be disclosed in the notes to the financial statements as part of the construction and other significant commitments note. This disclosure should include amounts for each major fund with a separate total for all non-major funds. (GASB 54 ¶24 or GASB Cod. 1800.184)

Governments that establish stabilization arrangements, even if they don't meet the restricted or committed criteria, should disclose: (a) the authority for establishing stabilization arrangements (for example, by statute or ordinance), (b) the requirements for additions to the stabilization amount, (c) the conditions under which stabilization amounts may be spent, and (d) the stabilization balance, if not apparent on the face of the financial statements. (GASB 54 ¶26 or GASB Cod. 1800.186)

If a governing body has formally adopted a minimum fund balance policy, the government should describe in the notes to its financial statements the policy established by the government that sets forth the minimum amount. (GASB 54 ¶27 or GASB Cod. 1800.187)

Governmental Fund Type Definitions

The definitions of the general, special revenue, capital projects, debt service, and permanent fund types are clarified in GASB 54. The new governmental fund type definitions are (these definitions are taken directly from GASB 54):

General Fund The general fund should be used to account for and report all financial resources not accounted for and reported in another fund. (GASB 54 ¶29 or GASB Cod. 1300.104)

Special Revenue Funds Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The term *proceeds of specific revenue sources* establishes that one or more specific restricted or committed revenues should be the foundation for a special revenue fund. (GASB 54 ¶30 or GASB Cod. 1300.105)

Capital Projects Funds Capital projects funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments. (GASB 54 ¶33 or GASB Cod. 1300.106)

Debt Service Funds Debt service funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. Debt service funds should be used to report resources if legally mandated (i.e. debt payable from property taxes). Financial resources that are being accumulated for principal and interest maturing in future years also should be reported in debt service funds. (GASB 54 ¶34 or GASB Cod. 1300.107)

Permanent Funds Permanent funds should be used to account for and report resources that are restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs – that is, for the benefit of the government or its citizenry. Permanent funds do not include private-purpose trust funds, which should be used to report situations in which the government is required to use the principal or earnings for the benefit of individuals, private organizations, or other governments. (GASB 54 ¶35 or GASB Cod. 1300.108)

Special Revenue Funds

The special revenue fund type definition addresses proceeds of specific restricted or committed revenue sources as the basis for a special revenue fund. Various revenues or resources can be reported in a special revenue fund; however, the fund is required to include substantial restricted or

committed revenues as its foundation. Assigned revenues, transfers-in, or other financing sources (inflows) cannot be the foundation for establishing a special revenue fund. Substantial restricted or committed revenues means a material amount and it does not imply a quantitative range (more or less than some percentage of inflows).

When a special revenue fund is established to account for restricted or committed revenue, but the fund has a limited life expectancy and the inflows into the fund ultimately cease, the balance in that fund does not have to be reported as part of the general fund provided there **are no continuing inflows** (i.e., transfers) into the fund. The separate fund can continue to be reported until the restricted resources have been used for their specified purposes (Z.54.33 / QZ.704-10). Governments should discontinue reporting a special revenue fund and instead report the fund's remaining resources in the general fund, or another fund with a similar purpose that meets the criteria to be reported as a special revenue fund, if the government no longer expects that a substantial portion of the inflows will derive from restricted or committed revenue sources.

The new definition for special revenue funds includes a requirement that a specific source of revenue at least be committed. A fund with committed resources may require Auditor of State approval under ORC Section 5705.12. Most Ohio local governments can only do what is authorized in State statute, so the ability to commit an otherwise unrestricted general fund revenue for some other specific purpose may not exist. Municipalities may, because of home rule, be able to commit, by ordinance, a specific source of revenue to a specific purpose.

Debt Service and Capital Projects Funds

Debt service and capital projects funds do not need a foundation revenue to exist and can have transfers as their sole inflow. If a capital projects fund has a transfer as its sole inflow and the governing body has identified a specific purpose by ordinance or resolution, then the fund balance is committed. However, if the governing body has not identified a purpose, the fund balance is assigned.

Required Note Disclosure

Governments should disclose in the notes to the financial statements the purpose for each major special revenue fund. This definition should identify the foundation revenues in each fund and the source of the restriction or commitment. (GASB Cod. 1300.105)

Change in Fund Classification

GASB 54 changes the definitions of governmental funds; therefore, some funds that are maintained for day-to-day accounting purposes may no longer meet the fund type criteria for reporting in the year-end external financial statements. These funds should be presented as part of the general fund or a qualifying special revenue fund in the year-end financial statements. The budgetary comparison information in the year-end financial statements should be the legally adopted budget for the general fund or major special revenue funds, without modification for the funds no longer meeting the special revenue criteria. Differences in fund structure between budgetary reporting and GAAP reporting are "perspective differences." (See GASB Codification 2400.113) This perspective difference should be explained in the reconciliation of budgetary information to generally accepted accounting principles information. (Z54.41 / Cod. 1800.707-1) ~~Changes in fund structure should be applied retroactively and will result in restating fund balance for all prior periods.~~[1]

Specific Issues/Additional Information

Proprietary Funds

The new GASB 54 fund balance classifications apply to governmental fund financial statements only. They do not apply to net ~~assets~~ position in proprietary funds or to the government-wide statement of net assets position.

Relationship of net assets position to fund balance

Restricted fund balance on the governmental fund financial statements will generally be different from restricted net assets position for governmental activities reported on the government-wide statement of net assets position. There are three reasons for this difference. First, the principal amount of a permanent fund is classified as nonspendable fund balance in the governmental fund financial statements, but is included in restricted net assets position in the government-wide statement of net assets position.

Second, the fund financial statements are prepared on the modified accrual basis of accounting and the government-wide statement of net assets position is prepared on the accrual basis of accounting. The differences between the two bases of accounting will generate differences in the two amounts. And finally, the internal service fund is not included on the governmental fund financial statements; however, on the government-wide statement of net assets position, the internal service fund is generally included with governmental activities. (Z.54.10 / Cod. 1800.742-3)

Transfers

Transfers in are an inflow of resources to a fund, not a revenue source. A governing board can pass a resolution to annually transfer amounts from the general fund to a special revenue fund; however, when the transfer is the only inflow to be used for a specified purpose, it does not meet the criteria for ***restricted*** or ***committed*** revenues necessary to meet the definition of a special revenue fund. The separate fund can be reported as a special revenue fund even if the transfers-in exceed the foundation revenue for that fund, if the foundation revenues comprise a substantial portion of the total inflows in the fund. Following the constraint placed on fund resources by State law (5705.10(~~H~~I), R.C.), the transferred resources would be reported under the same classification as the foundation revenues in the fund (restricted or committed ~~revenues~~). When transfers from the general fund are the only inflow for ~~to any other~~ governmental funds (other than special revenue fund) fund balance would be classified as part of assigned fund balance unless the governing board, by ordinance or resolution, identifies a specific purpose for the funds, in which case the resources would be reported as committed fund balance.

Cemetery Funds

Municipalities: Sale of cemetery lots under ORC Section 759.13 are restricted, "No more shall be charged for lots than is necessary to reimburse the city for the expense of lands purchased or appropriated for cemetery purposes, and to keep in order and embellish the grounds." If the charges for services received under ORC Section 759.13 are considered the foundation revenue of the cemetery fund, then it would be a special revenue fund with a restricted fund balance. If the foundation revenue under ORC Section 759.13 is no longer collected, reevaluate the fund.

Cemetery money coming in under ORC Section 759.12 and ORC Section 759.15 should be reported as a permanent fund or private purpose trust fund. ORC Section 759.12 states that the dollars received under this section is "… for the perpetual care of the lots designated, using only the interest or income of the money." ORC Section 759.15 states that the city shall "…forever hold such money as a permanent fund (statutory use and does not match GASB definition), and pay to the director (director of public service) in semiannual payments as interest on the funds, a sum sufficient to provide perpetual care of the lots as agreed by the director."

GASB 34 and 54 defines permanent funds as funds "…used to report resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs—that is, for the benefit of the government or its citizenry." Private purpose trust funds "…should be used to report situations in which the government is required to use the principal or earnings for the benefit of individuals, private organizations, or

other governments." (GASB Cod. 1300.108) Investing a specific portion of the fee charged to everyone for the sale of lots and using the interest to cover on-going maintenance of a cemetery (mowing) is benefitting the government or its citizenry and would be a permanent fund. Allowing individuals the option to contribute with the principal and/or interest designated for placing flowers on specific grave sites is benefitting individuals and would be a private purpose trust fund.

Under GASB 54 (on the governmental fund financial statement), the principal of a permanent fund is reported as nonspendable. On the statement of net assets position, amounts that are required to be retained in perpetuity are to be classified as nonexpendable within the restricted net asset category. GASB 34, paragraph 35 (GASB Cod. 2200.103) states that permanent fund principal amounts should be shown in two additional categories of restricted net assets position—expendable and nonexpendable.

Donations received under ORC Section 759.14 could be a special revenue, capital projects, permanent or private purpose trust fund depending on the nature of the donation. ORC Section 759.14 states that the donation may be "…used for the enlargement, improvement, embellishment, or care of the cemetery grounds generally, or for any particular parts or lots therein, as the donor directs, or as the director determines if no such direction is given." Embellishment or care of the grounds generally could be a special revenue fund if the GASB 54 restricted or committed criteria are met. Enlargement or improvement of the grounds generally would be a capital projects fund. Enlargement, improvement, embellishment or care of a particular lot directed by the donor would be a private purpose trust. A permanent fund would only be used if the principal cannot be spent and the earnings are used for government programs. (See permanent fund definition above.)

Townships: ORC Section 517.07 establishes the township's ability to sell cemetery lots, "Upon application, the board of township trustees shall sell at a reasonable price the number of lots as public wants demand for burial purposes." ORC Section 517.08 places the restriction on these dollars, "The proceeds arising from the sale of cemetery lots under ORC Section 517.07 shall be used in maintaining, improving, beautifying, and embellishing such grounds, …" If the charges for services received under ORC Section 517.07 are considered the foundation revenue of the cemetery fund, then it is a special revenue fund with a restricted fund balance.

Dollars receipted into a Cemetery Fund under ORC Section 517.15 can be for a variety of purposes, as follows:

(A) "Gifts, devises, or bequests received for the purpose of maintaining, improving, or beautifying township cemeteries;" These dollars would be presented in a special revenue fund with a restricted fund balance.

(B) "Charges added to the price regularly charged for burial lots for the purpose of maintaining, improving, or beautifying township cemeteries;" These dollars may be presented in a permanent fund with a nonspendable fund balance.

(C) "Contributions of money from the township general fund;" These dollars would most likely not be the foundation revenue of the fund. These dollars would be presented in a special revenue fund with a restricted fund balance.

(D) "An individual agreement with the purchaser of a burial lot providing that a part of the purchase price is to be applied to the purpose of maintaining, improving, or beautifying any burial lot designated and named by the purchaser;" These dollars would be presented in a private purpose trust fund – not subject to GASB 54 fund balance classifications.

(E) "Individual gift, devises, or bequests made for the maintenance, improvement, and

beautification of any burial lot designated and named by the person making the gift, devise, or bequest." These dollars would be presented in a private purpose trust fund – not subject to GASB 54 fund balance classifications.

State statute allows this activity to be in one fund; however, maintaining separate funds may simplify financial reporting issues.

Municipal Income Tax

A municipal income tax enacted under ORC Section 718.01(C), results in various classifications of fund balance as follows:

- An income tax (up to one percent) is enacted without voter approval and no constraints are placed on the use of the revenue. This income tax revenue is to be included with the general fund and is part of the unassigned fund balance. There is no basis for a separate fund, even on a budgetary basis.

- An income tax is enacted with voter approval and no constraints are placed on the use of the revenue. This income tax revenue is included with the general fund and is part of the unassigned fund balance. Again, there is no basis for a separate fund.

- An income tax is enacted with or without voter approval and constraints on the use of the revenue are imposed by a separate ordinance. For GASB 54 purposes, this income tax revenue is included with the general fund if it is used for municipal operations. It could also be reported as a separate special revenue or as a capital projects fund depending on the use of the revenue. Regardless of how the fund is reported, the fund balance will be committed.

- An income tax (up to one percent) is enacted without voter approval and constraints on the use of the revenue are imposed through enabling legislation – original ordinance. For GASB 54 purposes, this income tax fund is reported as a separate special revenue or capital projects fund depending on the use of the revenue, and reports a restricted fund balance.

- An income tax is enacted with voter approval and constraints on the use of the revenue are imposed externally by the voters. For GASB 54 purposes, this revenue is reported as a separate special revenue or capital projects fund depending on the use of the revenue, and is classified as restricted fund balance.

School District Income Tax

A school district income tax is enacted with voter approval and no constraints are placed on the use of the revenue. For GASB 54 purposes, this income tax revenue is included with the general fund and is part of unassigned fund balance. If however, the revenue is for capital improvements, this income tax revenue is included in the permanent improvements capital projects fund and is classified as restricted fund balance

Charges for Services

When a fund has "Charges for Services" as its foundation revenue, each situation should be evaluated separately:

- Certain "Charges for Services" have external constraints and meet the definition of restricted fund balance. See the Restricted Fund Balance section of this bulletin.

- Certain "Charges for Services" have no external constraints; instead the constraints are internally generated by the government's highest level of decision-making authority. To commit the resource, the language in the ordinance/resolution creating the constraint should identify both the revenue source and the constraint and indicate the revenue is to

support the activity. Examples include: charges for services related to swimming pools, parking lots, recreation centers, garbage collections, and transit services.

- If the criteria for restricted and committed are not met, the revenue will be reported with the general fund and report an assigned or unassigned fund balance, as appropriate.

- If "Charges for Services" is not the foundation revenue, and the foundation revenue is restricted, the "Charges for Services" would also be restricted. See the Restricted Fund Balance section of this bulletin.

Donations

Donations received by a local government can be classified two ways. First, donations received with constraints imposed by the contributor are nonspendable (corpus) or restricted. Second, donations can be given to a specific department or fund in which case there is an implied constraint imposed by the donor. When this is combined with a resolution/ordinance recognizing the implied consent on the use of the dollars, the fund balance is committed. Donations received without written directive of how it is to be used from the donor should be considered a general fund receipt and reported as unrestricted fund balance.

OCBOA and Regulatory Financial Statements

Those local governments preparing OCBOA and regulatory statements should implement both the new fund balance classifications and the governmental fund type definitions. ~~New templates will be~~ Templates are available to facilitate this process. A failure to follow these classifications would usually preclude auditors from expressing an unqualified opinion on the statements.

Unclaimed Monies Fund

For unclaimed monies, the difference between the amount of cash in the fund and the estimated liability for payments to claimants would be classified as nonspendable fund balance until the end of the five year holding period. Unclaimed funds are legally required (ORC Section 9.39) to be maintained for five years. For a cash basis entity, the entire cash balance would be reported as nonspendable.

School District Issues

~~Property Tax Advances and Subsequent Years' Appropriations~~

~~When the appropriation measure is adopted for the subsequent year, if a portion of existing fund balance is included as a budgetary resource (appropriated for general fund uses or appropriations exceed estimated receipts), then that portion of fund balance should be classified as assigned. (GASB 54 ¶16 and Z.54.13) For School Districts, the amount available as an advance against the August real property settlement (booked as a receivable/revenue at June 30) is part of fund balance. Therefore, when making this calculation, the estimated receipts should not include the amount available as an advance against the August real property settlement. Since the general fund is the only fund with a positive unassigned fund balance, this calculation is only needed for the general fund.~~ Note: After re-evaluation of this guidance subsequent to the date the original bulletin was issued, we have removed this paragraph to prevent confusion. The relevant information is already referenced in the last paragraph of the *Assigned Fund Balance* section on page 4 of this bulletin.

Allocation of Inside Millage

School Districts have the ability to allocate inside millage from the general fund to the permanent improvement fund. This reallocation process goes through a formal legislative process, public hearings, and the county budget commission. The allocated millage/revenues, such as those directed for permanent improvements, should be reported as committed fund balance as the same

process is followed to return the inside millage to the general fund.

Classroom Facility Maintenance Fund (034)

School districts are required to establish and maintain a Classroom Facility Maintenance Special Revenue Fund and have a voted half mill property tax levy to finance the maintenance of completed School Facility Projects for 23 years. As an alternative to the half mill levy, a school district may earmark a portion of an existing continuing permanent improvement property tax levy or the proceeds of an income tax levy that may be used for permanent improvements. By statute, these resources are transferred to the Classroom Facility Maintenance Fund. In order to report the Classroom Facility Maintenance Special Revenue Fund, the transfers-in, on a GAAP basis, should be reclassified to property or income tax revenues and the transfers-out should be eliminated by reducing property or income tax revenues in the originating fund. This allows the Classroom Facility Maintenance Fund to report a specific revenue source (the foundation revenue) meeting the criteria necessary to have a special revenue fund. The transfers should continue to be presented on the budget and actual financial statements.

Set-Asides

School District set-asides established by ORC Sections 3315.17 and .18 represent restricted fund balance within the general fund. Effective July 1, 2011, the textbook set-aside is no longer required and has been removed from existing law.

Unspent refunds or rebates from Bureau of Workers' Compensation received prior to April 10, 2001, (previously required by law to be deposited into a budget reserve) are limited to the following purposes:

- To offset a budget deficit;
- For school facility construction, renovation or repair;
- For textbooks or instructional materials, including science equipment or laboratories;
- For the purchase of school buses; or
- For professional development of teachers.

The last four items above would be reported as restricted fund balance because of the constraints placed on the use by State statute and should be reported within the general fund according to the purpose chosen by the board of education. The choice to offset a budget deficit parallels a budget stabilization arrangement which is reported as unassigned fund balance. This presentation differs from the guidance in GASB 54 which has constraints imposed by State statute (laws of another government) as restricted fund balance.

GASB 54 Fund Balance Classification Analysis Charts

The following pages contain charts presenting the more common funds and foundation revenue/inflow for Cities/Villages, Schools Districts, Counties, Townships and Libraries.

The charts identify the "GASB 54 fund classification" and the "prior fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The charts do not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

The chart may identify multiple foundation revenues/inflows for a single fund. Local governments

should identify which resource or resources they will be using as their foundation revenue and classify fund balance as appropriate. For example on the county chart, the jail operations special revenue fund could have property taxes or charges for services as its foundation revenue. If property taxes are the foundation revenue, fund balance would be restricted; however, if charges for services are the foundation revenue, fund balance would be committed.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact Local Government Services at the Auditor of State's Office at ~~(800) 345-2519~~ (614)466-4717.

Dave Yost
Ohio Auditor of State

Cities/Villages

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
General	General	General	Various sources	None	None	Unassigned
General	SR	Compensated Absences	Transfers +	ORC Section 5705.13(B), transferred from other funds	City's intent--pmt of sick/vacation/comp at termination	Committed
General	SR	Underground Storage Tanks	Transfers from other funds +	AOS Bulletin 94-04	Remediation deductible; no specific source, transfers	Committed
General	General	Unclaimed Monies Fund	Various unclaimed funds	ORC Section 9.39	Externally imposed by State Statute	Nonspendable
General	General	General	Hotel/Motel Tax - 50% for municipality	ORC Section 5739.09(B)	None	Unassigned
SR	SR	Police Pension	3/10 mill Property Taxes	ORC Sections 5705.06(G) & 742.33(B)	Externally imposed by State Statute	Restricted
SR	SR	Fire Pension	3/10 mill Property Taxes	ORC Sections 5705.06(G) & 742.34(B)	Externally imposed by State Statute	Restricted
SR	SR	Special Levy	Property Taxes	ORC Section 5705.19	Externally imposed by voters	Restricted
SR	SR	Hotel/Motel Tax	Hotel/Motel Tax - 50% for municipality	ORC Section 5739.09(B)	Internally imposed by City Ordinance	Committed
SR	SR	Hotel/Motel Tax	Hotel/Motel Tax - 50% for convention and visitors' bureau	ORC Section 5739.09(B)	Externally imposed by State Statute	Restricted
SR + a	SR	Tax Increment	Increment Taxes	ORC Sections 5709.40 - 5709.43 & 5709.47	Externally imposed by State Statute	Restricted
SR	SR	Service Assessments	Special Assessments	ORC Chapters 727 & 729	Externally imposed by State Statute	Restricted
SR + b	SR	CDBG	Intergovernmental-Grant Monies	Grant Award/Agreement	Externally imposed by Grantor	Restricted
SR	SR	CDBG Revolving Loan	Intergovernmental	Grant Award/Agreement	Externally imposed by Grantor +	Restricted +
SR	SR	Cops	Intergovernmental-Grant Monies	Grant Award/Agreement	Externally Imposed by Grantor	Restricted
SR	SR	FEMA	Intergovernmental	ORC Section 131.35	Externally imposed by State Statute/grant award	Restricted
SR	SR	HUD Housing	Intergovernmental-Grant Monies	Grant Award/Agreement	Externally imposed by Grantor	Restricted
SR	SR	Joint Economic Develop District	Intergovernmental - City's share of JEDD income tax collections	ORC Sections 715.72-715.83	Externally Imposed by State Statute	Restricted
SR	SR	Street Maintenance (SCMR)	Intergovernmental		Externally imposed by State Statute	Restricted
			- Gas Tax	ORC Section 5728.06 & ORC Chapter 5735		
			- Motor Vehicle License Fees	ORC Chapter 4503		
SR	SR	State Highway	Intergovernmental		Externally imposed by State Statute	Restricted
			- Gas Tax	ORC Section 5728.06 & ORC Chapter 5735		
			- Motor Vehicle License Fees	ORC Chapter 4503		
SR	SR	Permissive Motor Vehicle License	Intergov't - Permissive MVL	ORC Chapter 4504	Externally imposed by State Statute	Restricted
SR	SR	Drug Law Enforcement	Fines and Forfeitures	ORC Section 2925.03, AOS Bulletin 86-16	Externally imposed by State Statute	Restricted
SR	SR	Enforcement and Education	Fines and Forfeitures	AOS Bulletin 90-25	Externally imposed by State Statute	Restricted
SR	SR	Federal Equitable	Fines and Forfeitures	US Treasury & Justice Departments	Externally imposed by Federal Law	Restricted
SR	SR	Indigent Alcohol	Fines and Forfeitures	ORC Sections 4511.191(H)(1) & 2949.094(A)	Externally imposed by State Statute	Restricted
SR	SR	Law Enforcement Trust	Fines and Forfeitures	ORC Section 2981.13 (C)(1)	Externally imposed by State Statute	Restricted
SR	SR	Mandatory Drug Fines	Fines and Forfeitures	ORC Section 2925.03, AOS Bulletin 86-16	Externally imposed by State Statute	Restricted
SR + c	SR	Municipal Court Special Programs	Fines and Forfeitures	ORC Section 1901.26 (B)(1)	Externally imposed by State Statute	Restricted
SR	SR	Cemetery	Charges for Services-Sale of Lots	ORC Section 759.13	Externally imposed by State Statute	Restricted
SR + d	SR	City Donation Fund	Donations	External resource providers	Externally imposed by contributor	Restricted
			Donations	External resource providers	Implied by donor, internally imposed by ordinance	Committed
DS	DS	G.O. Bond Retirement	Property Taxes	ORC Sections 5705.19; 133.10 & 133.25	Externally imposed by State Statutes	Restricted
			Income Taxes	ORC Sections 5705.09; 133.10 & 718.01	Externally imposed by State Statutes	Restricted
			Transfers +	Transfers from General Fund	City intends to use for specific purpose	Assigned
DS	DS	Special Assessment Bond Retirement	Special Assessments	ORC Sections 133.17 & 6115.50	Externally imposed by State Statutes	Restricted
CP	CP	Capital Grants	Intergovernmental	Grant Award/Agreement	Externally imposed by Grantor	Restricted
CP	CP	Federal Stimulus	Intergovernmental	Grant Award Letter	Externally imposed by Grantor	Restricted
CP	CP	Issue II Improvements	Intergovernmental	OPWC Money	Externally imposed by grantor/OPWC	Restricted
CP	CP	Municipal Court Improvements	Fines and Forfeitures	ORC Section 1901.26 (B)(1)	Externally imposed by State Statute	Restricted
CP	CP	Capital Improvement Assessment Fund	Special Assessments	ORC Chapters 727 & 729	Externally imposed by State Statute	Restricted

Cities/Villages

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
CP	CP	Construction/Improvement Fund	Specific source TBD by City	ORC Section 5705.13 (C) & City Ordinance	Internally imposed by City ordinance	Committed
			Transfers +	ORC Section 5705.13 (C) & City Ordinance	City has identified a specific purpose by ordinance	Committed
			Transfers +	ORC Section 5705.13 (C)	City has not identified a specific purpose	Assigned
CP	CP	Construction Fund	Initial Debt Proceeds +	ORC Sections 133.15, & .32	Externally imposed by debt covenants	Restricted
Perm	Perm	Cemetery Investment/Perpetual Care	Charges for Services	ORC Sections 759.12 & .15	Imposed by State Statute	Nonspendable
Perm + e	Perm	Endowment	Donations-Corpus can't be spent	ORC Section 5705.09 (F), Trust Law	Externally imposed by donor	Nonspendable
			Earnings on corpus	ORC Section 5705.09 (F), Trust Law	Externally imposed by donor	Restricted

Cities/Villages
Explanatory Notes

The preceding chart shows the "prior fund classification" and the "GASB 54 fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The preceding chart does not include all possible grant funds: however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

+ GASB 54 Fund Classification

a AOS Bulletin 2010-003 addresses the appropriate fund classification to account for Tax Increment Financing (TIF) and other funds that maybe necessary for external reporting. Regardless of fund classification, the fund balance related to TIF's would be restricted.

b Some of the grant funds that are presented as special revenue funds could also be capital projects funds based on the use of the award; however, the fund balance classification will still be restricted.

c The municipal court computerization funds could be classified as special revenue or capital projects funds based on the use of the dollars; however, the fund balance classification will still be restricted.

d Some of the donation funds could be capital projects funds based on the use of the dollars; however, the fund balance classification will not change.

e The use of a permanent fund requires an evaluation of each individual circumstance, and the chart is illustrating the GASB 54 fund balance classification for those situations when a permanent fund is appropriate.

+ Foundation Revenue/Inflow

Transfers and debt proceeds represent an inflow not a revenue.

+ Type of Constraint

Review grant agreement for constraints on use of interest payments and collection of receivable.

+ Fund Balance Classification

The fund balance classification related to the loan receivable may be presented as restricted if the proceeds from the collection of the receivable are restricted.

School Districts

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
General	General	General Fund (001)	Various Sources	None	None	Unassigned
General + a	SR	Uniform School Supplies (009)	Tuition and Fees	ORC Section 3313.811	None, statute too broad	Unassigned
			Tuition and Fees	ORC Section 3313.811	Board Policy indicating intended use of revenues	Assigned
General	SR	Rotary Fund - Special Services (011)	Charges for Services	ORC Section 5705.12, AOS Permission Req'd	None	Unassigned
			Charges for Services	ORC Section 5705.12, AOS Permission Req'd	Board Policy indicating intended use of revenues	Assigned
General + a	SR	Adult Education (LSD, CSD & EVSD)	Tuition and Fees	ORC Section 5705.12, AOS Permission Req'd	None, No Board Policy	Unassigned
			Tuition and Fees	ORC Section 5705.12, AOS Permission Req'd	Board Policy indicating intended use of revenues	Assigned
General	SR	Emergency Levy Fund (016)	Property Taxes	ORC Section 5705.194	No restrictions in ballot language	Unassigned
General	SR	Public School Fund (018)	Sales	ORC Section 5705.12, AOS Permission Req'd	School Board approval	Assigned
General	SR	Underground Storage Tanks (031)	Transfers +	AOS Bulletin 94-04	Remediation deductible; no specific source, transfers	Committed
General	SR	Termination Benefits (035)	Transfers +	ORC Section 5705.13(B)	Termination payments; no specific source, transfers	Committed
SR + a	SR	Food Service (006)	Charges for Services, Intergov't	ORC Section 3313.81	Externally imposed by State Statute	Restricted
SR	SR	Special Trust (007)	Donations	External resource providers	Externally imposed by donor	Restricted
			Donations	External resource providers	Implied by donor, internally imposed by resolution	Committed
SR + a	SR	Adult Education (012)	Intergov't - JVS State Funding	ORC Sections 5705.12 & 3301.40, AOS Permission Req'd	Externally imposed by State Statute	Restricted
SR	SR	Emergency Levy Fund (016)	Property Taxes	ORC Section 5705.194	Externally imposed by voters, see ballot language for constraints	Restricted
SR + b	SR	Other Grants Funds (019)	Donations, Intergov't	External resource providers/grant agreement	Externally imposed by State Statute or the Grantor	Restricted
SR	SR	Ed Foundation Fund (029)	Donations - with conditions	ORC Section 3315.40	Externally imposed by Donor	Restricted
			Donations - without conditions	ORC Section 3315.40	Directed by Board resolution	Committed
SR	SR	Special Levy Fund (030)	Property Taxes	ORC Sections 5705.199 & .21	Externally imposed by Voters	Restricted
SR	SR	School Improvement Models (032)	Intergovernmental	Grantor	Externally imposed by the Grantor	Restricted
SR	SR	Classroom Facilities Maintenance (034)	Property Taxes	ORC Section 3318.06	Externally imposed by Voters	Restricted
SR	SR	District Managed Student Activity (300)	Extracurricular Activities	ORC Section 3315.062	Externally imposed by State Statute	Restricted
SR	SR	School Bus Driver Training Program (421)	Intergovernmental	Ohio Department of Highway Safety PL 89-654, CFDA 20.600	Externally imposed by Ohio Dept of Highway Safety	Restricted
SR	SR	Motorcycle Safety & Education (430)	Intergovernmental	ORC Section 4501.13	Externally imposed by State Statute	Restricted
SR	SR	All other State Grant Funds	Intergovernmental	State biennium budget bill, See USAS	Externally imposed by State General Assembly	Restricted
SR	SR	Federal Grant Funds	Intergovernmental	Catalog of Federal Domestic Assistance	Externally imposed by Federal Granting Agency	Restricted
DS	DS	Bond Retirement (002)	Property Taxes	ORC Sections 5705.09 & 133.18	Externally imposed by State Statute & Voter Approval	Restricted
CP	CP	Permanent Improvement (003)	Property Taxes	ORC Section 5705.21	Externally imposed by State Statute & Voter Approval	Restricted
			Property Taxes-diverted inside millage	ORC Chapter 5705	Internally imposed by Board of Education & Budget Commission Approval	Committed
			Income Tax	ORC Section 5748.02	Externally imposed by State Statute & Voter Approval	Restricted
			Sale of Permanent Improvement	ORC Section 5705.10F	Externally imposed by State Statute	Restricted
			Transfers +	Transfers from General, ORC Section 5705.12, AOS Permission Req'd	Board of Education has identified a specific purpose by resolution	Committed
			Transfers +	Transfers from General, ORC Section 5705.12, AOS Permission Req'd	Board of Education has not identified a specific purpose	Assigned
CP	CP	Building Fund (004	Debt Proceeds +	ORC Section 133.32	Externally imposed by State Statute	Restricted
CP	CP	Classroom Facilities (010)	Intergovernmental	ORC Sections 3318.04, .080 & .15	Externally imposed by State Statute/OSFC/Voters	Restricted
CP	CP	Library Construction (017)	Debt Proceeds +	ORC Sections 3375.43 & .44	Externally imposed by State Statute/Voters	Restricted
CP	CP	Special Levy (Capital Projects) (033)	Property Taxes	ORC Sections 5705.21	Externally imposed by the Voters	Restricted
CP	CP	Capital Projects (070)	Specific Source TBD by School	ORC Section 5705.13 (C) & Board Resolution	Internally imposed by Board of Education	Committed
			Transfers +	ORC Section 5705.13 (C) & Board Resolution	Board of Education has identified a specific purpose by resolution	Committed
			Transfers +	ORC Section 5705.13 (C) & Board Resolution	Board of Education has not identified a specific purpose	Assigned
CP	CP	Capital Grants Fund (071)	Intergovernmental	Grant agreement	Externally imposed by State Statute	Restricted
CP	CP	Vocational Education Equipment (420)	Intergovernmental	HB 1, 128th GA appropriation line item 200-526	Externally imposed by State General Assembly	Restricted
CP	CP	School Net (450)	Intergovernmental	HB 1, 128th GA appropriation line item 228-539	Externally imposed by State General Assembly	Restricted

School Districts

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
CP	CP	Telecommunity (453)	Intergovernmental	HB 1, 128th GA appropriation line item 228-630	Externally imposed by State General Assembly	Restricted
CP	CP	School Building Ass't Limited Fund (496)	Intergovernmental	Senate Bill No. 102	Externally imposed by Senate Bill 102	Restricted
CP	CP	CAP (498)	Intergovernmental	House Bill 810 (122 GA)	Externally imposed by House Bill 810	Restricted
CP	CP	Emergency School Repair (583)	Intergovernmental	Catalog of Federal Domestic Assistance #84.3542	Externally imposed by Federal Grant	Restricted
Perm + c	Perm	Special Trust (007)	Donations-Corpus can't be spent	External resource providers	Externally imposed by donor	Nonspendable
			Earnings on corpus	External resource providers	Externally imposed by donor	Restricted
Perm + c	Perm	Endowment (008)	Donations-Corpus can't be spent	External resource providers	Externally imposed by donor	Nonspendable
			Earnings on corpus	External resource providers	Externally imposed by donor	Restricted

School Districts
Explanatory Notes

The preceding chart shows the "prior budgetary USAS fund classification' and the "GASB 54 fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The preceding chart does not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

+ GASB 54 Fund Classification

a Some of the funds with charges for services or tuition and fees revenue could be reported as enterprise funds and would not report fund balance.

b Some of the donation funds could be capital projects funds based on the use of the dollars; however, the fund balance classification will not change.

c The use of a permanent fund requires an evaluation of each individual circumstance, and the chart is illustrating the GASB 54 fund balance classification for those situations when a permanent fund is appropriate.

+ Foundation Revenue/Inflow

Transfers and debt proceeds represent an inflow not a revenue.

+ Type of Constraint

Fund 018 has no legal restrictions, at best fund balance is assigned

Counties

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
General	General	General	Various, all unrestricted	None	None	Unassigned
General	SR	Certificate of Auto Title Administration	Fees retained by clerk of courts	ORC Section 325.33	State Statute - Residual Balance Unrestricted	Unassigned
General	SR	Equipment Recorders Supply	Charges for Services	ORC Section 317.321	State Statute - Residual Balance Unrestricted	Unassigned
General	SR	Public Defender	Charges for Services	ORC Sections 120.18 & 120.28	Reimbursement of costs	Unassigned
General	SR	Various	Charges for Services	No resolution establishing funding source	Resolution establishing intent of fund	Assigned
General	General	Unclaimed Monies	Unclaimed Funds	ORC Section 9.39	Externally imposed by State Statute	Nonspendable
General	SR	Underground Storage Tanks	Transfers from other funds +	AOS Bulletin 94-04	Remediation deductible; no specific source, transfers	Committed
General	SR	Compensated Absences	Transfers +	ORC Section 5705.13 (B), Cash transferred from other funds	County's intent--pmt of sick/vacation/comp-time at termination	Committed
SR	SR	Mental Health Programs	Property Taxes	ORC Section 5705.221	Externally imposed by State Statute	Restricted
SR	SR	Jail Operating Levy	Property Taxes	ORC Section 5705.19 (MM)	Externally imposed by State Statute	Restricted
SR	SR	Emergency 911 Operating Fund	Property Taxes	ORC Section 5705.19 (BB)	Externally imposed by State Statute	Restricted
SR	SR	Mental Retardation	Property Taxes	ORC Section 5705.19 (L)	Externally imposed by State Statute	Restricted
SR	SR	Children Services Levy	Property Taxes	ORC Section 5705.24	Externally imposed by State Statute	Restricted
SR	SR	Senior Citizens Levy	Property Taxes	ORC Section 5705.19 (Y)	Externally imposed by State Statute	Restricted
SR	SR	County Home Levy	Property Taxes	ORC Section 5705.19 (K)	Externally imposed by State Statute	Restricted
SR	SR	Special Levy	Property Taxes	ORC Section 5705.19	Externally imposed by State Statute	Restricted
SR	SR	Criminal and Administrative Justice	Permissive Sales Tax	ORC Sections 5739.021 & 5741.021	Externally imposed by State Statute & Resolution	Restricted
SR	SR	Specific Purpose Permissive	Permissive Sales Tax	ORC Sections 5739.026 & 5741.021	Externally imposed by State Statute & Resolution	Restricted
SR	SR	Dog and Kennel	Charges for Services	ORC Sections 955.19 & .20	Externally imposed by State Statute	Restricted
SR	SR	Real Estate Assessment	Charges for Services	ORC Sections 325.31 & 319.54	Externally imposed by State Statute	Restricted
SR	SR	Geographic Information System (GIS)	Charges for Services	ORC Section 325.31	Externally imposed by State Statute	Restricted
SR	SR	Dispute Resolution Fees	Charges for Services	ORC Section 2101.163	Externally imposed by State Statute	Restricted
SR	SR	Delinquent Real/Assessment Collection	Charges for Services	ORC Section 321.261	Externally imposed by State Statute	Restricted
SR	SR	Indigent Guardianship	Charges for Services	ORC Section 2111.51	Externally imposed by State Statute	Restricted
SR	SR	Marriage License	Charges for Services	ORC Sections 3113.34, 2101.16 & 2303.201	Externally imposed by State Statute	Restricted
SR	SR	County Home	Charges for Services	Resolution establishing funding source	Internally imposed by county resolution	Committed
SR	SR	Developmental Disabilities	Charges for Services	Resolution establishing funding source	Internally imposed by county resolution	Committed
SR	SR	Children's Services	Charges for Services	Resolution establishing funding source	Internally imposed by county resolution	Committed
SR	SR	Jail Operations	Charges for Services	Resolution establishing funding source	Internally imposed by county resolution	Committed
SR	SR	Motor Vehicle Gas Tax (MVGT)	Intergovernmental - Gas Tax	ORC Sections 5735.25, 27,28, 29, 292, 30 & 5728.06	Externally Imposed by State Statute	Restricted
SR + a	SR	Airport	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Beautification	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR + a	SR	CDBG:				
		CDBG	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
		Community Home Improvement Program	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
		CDBG Revolving Loan	Intergovernmental - Grants	Grant Award/Agreement	Externally imposed by Grantor +	Restricted +
SR	SR	Child Support Enforcement Agency	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Children Services Grants	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Community Corrections Act Program	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Continuing Prof. Training Sheriff	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Crime Victims Assistance Office	Intergovernmental - Grants	ORC Section 307.62 & Federal/State Grantors	Externally imposed by Statute & Grantor	Restricted
SR	SR	Developmental Disabilities Grants:				
		Preschool Grant	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
		Title I	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
		MR Lunch	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
		Family Resources	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Domestic Violence Investigator	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Felony Delinquent Care & Cust.	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Juv Prob Serv Enhancement	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Juvenile Acct Incentive Block Grant	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted

Counties

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
SR	SR	Litter Control	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Mediation Juvenile Program	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Mental Health	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Prisoner Incentive	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Public Assistance:				
		Human Services	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
		WIA	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR	SR	Revolving Loan	Intergovernmental - Grants	Grant Award	Externally imposed by Grantor	Restricted
SR	SR	Victim Witness	Intergovernmental - Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
SR + b	SR	Clerk of Courts Computer Fund	Fines and Forfeitures	ORC Section 2303.201(A)	Externally imposed by State Statute	Restricted
SR + b	SR	Conduct of Business	Fines and Forfeitures	ORC Section 2101.19	Externally imposed by State Statute	Restricted
SR + b	SR	County Probation Services	Fines and Forfeitures	ORC Section 321.44	Externally imposed by State Statute	Restricted
SR + b	SR	Court Computer Equipment	Fines and Forfeitures	ORC Section 2303.201(B)	Externally imposed by State Statute	Restricted
SR + b	SR	Court Computer Research	Fines and Forfeitures	ORC Section 1907.261	Externally imposed by State Statute	Restricted
SR + b	SR	Court Special Projects	Fines and Forfeitures	ORC Sections 1907.24(B)(1), 2303.201 (E)(1), & 4511.19(G)(5)(e)	Externally imposed by State Statute	Restricted
SR	SR	Drug Law Enforcement	Fines and Forfeitures	ORC Section 2925.03, Technical Bulletin 86-16	Externally imposed by State Statute	Restricted
SR	SR	Enforcement and Education	Fines and Forfeitures	Technical Bulletin 90-25	Externally imposed by State Statute	Restricted
SR	SR	Indigent Drivers Alcohol Treatment	Fines and Forfeitures	ORC Section 2949.094	Externally imposed by State Statute	Restricted
SR	SR	Law Enforcement Trust	Fines and Forfeitures	ORC Section 2981.13	Externally imposed by State Statute	Restricted
SR	SR	Juvenile Diversion	Fines and Forfeitures	ORC Section 5139.43	Externally imposed by State Statute	Restricted
SR	SR	Concealed Handgun Lic Exp	Fees, Licenses and Permits	ORC Section 311.42	Externally imposed by State Statute	Restricted
SR + c	SR	County Donation Fund	Donations	External resource providers	Externally imposed by contributor	Restricted
SR + c	SR	County Donation Fund	Donations	External resource providers	Implied by donor, internally imposed by resolution	Committed
DS	DS	Bond Retirement	Permissive Sales Tax	ORC Sections 5739.026 & 133.081	Externally imposed by State Statute & Resolution	Restricted
			Property Taxes	ORC Sections 5705.19; 133.10, .18, & .25	Externally imposed by State Statute or voters	Restricted
			Rental Revenue	ORC Section 133.151	Externally imposed by State Statute	Restricted
			Transfers +			Assigned
DS	DS	Special Assessment Bond Retirement	Special Assessments	ORC Sections 133.17 & 6115.50	Externally imposed by State Statutes	Restricted
CP	CP	Capital Improvements	Note Proceeds +	ORC Section 133.32	Externally imposed by Debt Covenants	Restricted
CP	CP	Capital Improvements	Grants	Federal/State Grantors	Externally imposed by Grantor	Restricted
CP	CP	Capital Improvements	Property Taxes	ORC Section 5705.19 (G)	Externally imposed by State Statute	Restricted
CP	CP	Capital Improvements	Permissive Sales Tax	ORC Section 5739.026	Externally imposed by State Statute	Restricted
CP	CP	Issue II Improvements	Intergovernmental	OPWC Money	Externally imposed by grantor/OPWC	Restricted
CP	CP	Capital Improvement Assessment Fund	Special Assessments	ORC Section 5705.09	Externally imposed by State Statute	Restricted
CP	CP	Construction	Specific Source TBD by County	ORC Section 5705.13 (C) & County Resolution	Internally imposed by county resolution	Committed
			Transfers +	ORC Section 5705.13 (C) & County Resolution	Commissioners have identified a specific purpose by resolution	Committed
			Transfers +	ORC Section 5705.13 (C) & County Resolution	Commissioners have not identified a specific purpose	Assigned
CP + b	CP	Court Computer Fund	Fines and Forfeitures	ORC Section 2303.201(B)	Externally imposed by State Statutes	Restricted
Perm + d	Perm	Endowment	Donations-Corpus can't be spent	External resource providers	Externally imposed by donor	Nonspendable
Perm + d	Perm	Endowment	Earnings on corpus	External resource providers	Externally imposed by donor	Restricted

The chart shows the "prior fund classification' and the "GASB 54 fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The preceding chart does not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

+ GASB 54 Fund Classification

a Some of the grant funds which are presented as special revenue funds could also be capital projects funds based on the use of the award; however, the fund balance classification will not change.

b Some of the court computerization funds could be capital projects funds based on the use of the dollars; however, the fund balance classification will still be restricted.

c Some of the donation funds could be capital projects funds based on the use of the dollars; however, the fund balance classification will still be restricted.

d The use of a permanent fund requires an evaluation of each individual circumstance, and the chart is illustrating the GASB 54 fund balance classification for those situations when a permanent fund is appropriate.

+ Foundation Revenue/Inflow

Transfers and debt proceeds represent an inflow not a revenue.

+ Type of Constraint

Review grant agreement for constraints on use of interest payments and collection of receivable.

+ Fund Balance Classification

The fund balance classification related to the loan receivable may be presented as restricted if the proceeds from the collection of the receivable are restricted.

Townships

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
General	General	General (1000)	Various sources	None	None	Unassigned
General	SR	Compensated Absences	Transfers +	ORC Section 5705.13(B) Cash transferred from other funds	Township's intent--payment of sick/vacation/comp-time at termination	Committed
General	SR	Underground Storage Tank (2291 - 2339)	Transfers +	AOS Bulletin 94-04	Remediation deductible; however, no specific source, transfers	Committed
General	General	Unclaimed Monies Fund	Various unclaimed funds	ORC Section 9.39	Externally imposed by State Statute	Nonspendable
General	SR	Zoning	None	ORC Chapter 519	None	Unassigned
General	SR	Various	Charges for Services	No resolution establishing funding source	Resolution establishing intent of fund	Assigned
General	General	General	Hotel/Motel Tax - 50% for general fund	ORC Section 5739.09(B)	None	Unassigned
SR	SR	Motor Vehicle License Tax Fund (2011)	Motor Vehicle License Fees	ORC Chapter 4503	Externally imposed by State Statute	Restricted
SR	SR	Gasoline Tax Fund (2021)	Gas Tax	ORC Section 5728.06 & Chapter 5735	Externally imposed by State Statute	Restricted
SR	SR	Road and Bridge Fund (2031)	Property Taxes	ORC Section 5705.19 (G)	Externally Imposed by State Statute	Restricted
SR	SR	Road and Bridge Fund (2031)	Property Taxes--inside millage	ORC Section 5705.06 (F)	Internally Imposed by Trustees	Committed
SR	SR	Cemetery (2041 -2069)	Property Taxes	ORC Sections 517.03 & 5705.19 (T)	Externally Imposed by State Statute	Restricted
SR	SR	Cemetery (2041 -2069)	Charges for Services	ORC Section 517.15 A, C	Externally Imposed by State Statute	Restricted
SR	SR	Cemetery (2041 -2069)	Charges for Services	ORC Sections 517.07 & 517.08	Externally Imposed by State Statute	Restricted
SR	SR	Garbage and Waste Disposal District (2071 - 2079)	Property Taxes--inside millage	ORC Section 505.29,	Internally Imposed by Trustees	Committed
SR	SR	Garbage and Waste Disposal District (2071 - 2079)	Property Taxes	ORC Section 5705.19 (V)	Externally Imposed by State Statute	Restricted
SR	SR	Garbage and Waste Disposal District (2071 - 2079)	Charges for Services	ORC Section 505.29 - no separate fund req'd - Resolution establishing funding source	Internally imposed by township resolution	Committed
SR	SR	Police District (2081 -2109)	Property Taxes	ORC Sections 505.48, 505.51, & 5705.19 (J)	Externally Imposed by State Statute	Restricted
SR	SR	Police District (2081- 2109)	Charges for Services	ORC Section 505.431 - no separate fund req'd - Resolution establishing funding source	Internally imposed by township resolution	Committed
SR	SR	Fire District (2111-2139)	Taxes	ORC Sections 505.39 & 5705.19 (I)	Externally Imposed by State Statute	Restricted
SR	SR	Fire District (2111 - 2139)	Charges for Services	ORC Sections 505.371 & 505.375 - separate fund - rate set by fire district board	Externally imposed by State Statute	Restricted
SR	SR	Road District (2141 -2169)	Property Taxes	ORC Section 5573.211	Externally Imposed by State Statute	Restricted
SR	SR	Park Levy (2171 - 2179)	Property Taxes--inside millage	ORC Section 511.27	Internally Imposed by Trustees	Committed
SR	SR	Park Levy (2171 - 2179)	Property Taxes	ORC Section 5705.19 (H)	Externally Imposed by State Statute	Restricted
SR	SR	Special Levy (2191 -2219)	Property Taxes	ORC Sections 5705.19, 505.46 &.47	Externally imposed by voters	Restricted
SR	SR	Drug Law Enforcement (2221)	Fines and Forfeitures	ORC Section 2925.03, Technical Bulletin 86-16	Externally imposed by State Statute	Restricted
SR	SR	Permissive Motor Vehicle License (2231)	Intergovernmental		Externally imposed by State Statute	Restricted
			- Permissive MVL	ORC Chapter 4504	Externally imposed by State Statute	Restricted
SR	SR	Permissive Sales Tax (2241)	Hotel/Motel Tax - 50% for convention and visitors' bureau	ORC Section 5739.09(B)	Externally imposed by State Statute	Restricted
SR	SR	Federal Law Enforcement (2251)	Fines and Forfeitures	AOS Bulletin 88-18	Externally imposed by State Statute	Restricted
SR	SR	Law Enforcement Trust (2261)	Fines and Forfeitures	ORC Section 2981.13 (C)(1)	Externally imposed by State Statute	Restricted
SR	SR	Enforcement and Education (2271)	Fines and Forfeitures	AOS Bulletin 90-28	Externally imposed by State Statute	Restricted
SR	SR	Fire and Rescue, Ambulance and Emergency Medical Services (2281 - 2289)	Charges for Services	ORC Section 505.84 - separate fund - rate set by township trustees	Externally imposed by State Statute	Restricted
SR	SR	Service Assessments (2401 - 2599)	Special Assessments	ORC Section 515.11 - lighting	Externally imposed by State Statute	Restricted
SR	SR	Miscellaneous Special Revenue (2901 - 2999)	TBD by township	TBD by township	TBD by township	TBD by township
DS	DS	General Retirement Fund (2101 - 3199)	Property Taxes	ORC Sections 5705.19; 133.10 & 133.25	Externally imposed by State Statutes	Restricted
			Transfers +	Transfers from General Fund		Assigned
DS	DS	Special Assessment Bond Retirement (3301 -3399)	Special Assessments	ORC Sections 133.17 & 6115.50	Externally imposed by State Statutes	Restricted

Townships

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
DS	DS	Miscellaneous Debt Service (3901 - 3999)	TBD by Township	TBD by township	TBD by township	TBD by township
CP	CP	Bond Fund (4101 - 4999)	Initial Debt Proceeds +	ORC Sections 133.15, .32, & 504.20	Externally imposed by debt covenants	Restricted
CP	CP	Permanent Improvement (4301 - 4399)	TBD by Township	TBD by township	TBD by township	TBD by township
CP	CP	Public Works Commission Project (4401 - 4499)	Intergovernmental	OPWC Money	Externally imposed by grantor/OPWC	Restricted
CP	CP	Capital Improvement Assessment Fund (4501 - 4599)	Special Assessments	ORC Sections 504.18, 515.16 & 521.06 - water and sewer	Externally imposed by State statute	Restricted
CP	CP	Miscellaneous Capital Projects (4901 - 4949)	TBD by township	TBD by township	TBD by township	TBD by township
Perm	Perm	Cemetery (2041 -2069)	Charges for Services	ORC Section 517.15 B - endowment	Externally imposed by State Statute	Nonspendable
Perm +	Perm	Permanent (4951 - 4999)	Donations-Corpus can't be spent	ORC Section 5705.09(F)	Externally imposed by donor	Nonspendable
			Earnings on corpus	ORC Section 5705.09(F)	Externally imposed by donor	Restricted

The chart shows the "prior fund classification' and the "GASB 54 fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The preceding chart does not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

+ GASB 54 Fund Classification

The use of a permanent fund requires an evaluation of each individual circumstance, and the chart is illustrating the GASB 54 fund balance classification for those situations when a permanent fund is appropriate.

+ Foundation Revenue/Inflow

Transfers and debt proceeds represent an inflow not a revenue.

Libraries

GASB 54 Fund Balance Classification Analysis

GASB 54 Fund Classification	Prior Fund Classification	Fund Name	Revenue Source Foundation Revenue (SR only)/ Inflow	Source of Constraint	Type of Constraint	Fund Balance Classification
General	General	General	Various sources	None	None	Unassigned
General	General	Unclaimed Monies Fund	Various unclaimed funds	ORC Section 9.39	Externally imposed by State Statute	Nonspendable
SR	SR	Miscellaneous Special Revenue	Intergovernmental - Grants	Federal/State Grantors	Externally Imposed by Grantor	Restricted
DS	DS	General Retirement Fund	TBD by Library	TBD by Library	TBD by Library	TBD by Library
CP	CP	Capital Projects	TBD by Library	TBD by Library	TBD by Library	TBD by Librar
CP	CP	Building and Repair Fund	TBD by Library	TBD by Library	TBD by Library	TBD by Library
Perm +	Perm	Permanent	Donations-Corpus can't be spent	ORC Section 5705.09(F)	Externally imposed by donor	Nonspendable
Perm +	Perm	Permanent	Earnings on corpus	ORC Section 5705.09(F)	Externally imposed by donor	Restricted

The chart shows the "prior fund classification' and the "GASB 54 fund classification" to illustrate situations necessitating the change in fund classification resulting from the implementation of GASB 54. If the two columns are the same, then no change in fund classification resulted.

The preceding chart does not include all possible grant funds; however, if a special revenue fund or capital projects fund has been properly established to account for a grant, the fund balance would be restricted based on the language in the grant agreement.

+ GASB 54 Fund Classification

The use of a permanent fund requires an evaluation of each individual circumstance, and the chart is illustrating the GASB 54 fund balance classification for those situations when a permanent fund is appropriate.

+ Foundation Revenue/Inflow

Transfers and debt proceeds represent an inflow not a revenue.

Dave Yost
Ohio Auditor of State

Bulletin 2011-005

Auditor of State Bulletin

Date Issued: September 30, 2011

TO: **Public Schools**
Independent Public Accountants

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **Ohio Revised Code 5705.412 - School District Certificate of Adequate Resources**

This bulletin explains modifications to Ohio Revised Code Section 5705.412, effective September 29, 2011.

I. Summary of Current Law

Under current law, Ohio Revised Code § 5705.412 requires that a school district attach a certificate to every contract subject to § 5705.412 that exceeds the lesser of $500,000 or 1% of the total current fiscal year general fund revenue. The "412 certificate" documents that the district has or will have adequate revenue in approved tax levies, state funding and other resources to cover the amount of the contract for its entire term.

II. Recent Legislative Changes

Recently enacted House Bill 153 modified the requirements of Ohio Revised Code § 5705.412. Specifically, the bill authorizes a school district to enter into multi-year contracts without attaching the currently-required 412 certificate if an *alternative certificate* is attached in place of the 412 certificate.

The alternative certificate must certify the following:

1. The contract is a multi-year contract for materials, equipment, or non-payroll services essential to the education program of the district, and

2. The multi-year contract demonstrates savings over the duration of the contract as compared to costs that otherwise would have been demonstrated in a single year contract, and the terms will allow the district to reduce the deficit it is currently facing in future years as demonstrated in its five-year forecast adopted in accordance with Ohio Revised Code § 5705.391.

The alternative certificate must be signed by the treasurer and the school board president, as well as the superintendent of the school district. If the district is in a state of fiscal emergency, however, the certificate must be signed by a member of the district's financial planning and supervision commission who has been designated by the commission for this purpose.

III. Contracts with Lengths that Exceed a School District's Five-Year Forecast

The Auditor of State's office has been asked to verify our position on whether a school district may sign a 412 certificate for a contract with a length of term that exceeds its five-year forecast. In our opinion, a school district may do so even though the contracts term extends beyond the district's forecast. If, however, the district's five-year forecast is projecting a deficit, the district should attach the alternative 412 certificate if the requirements above are met.

Questions concerning this bulletin should be addressed to the Accounting & Auditing Support or Legal divisions of the State Auditor's Office at (800) 282-0370.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2011-008

Auditor of State Bulletin

Date Issued: December 9, 2011

TO: Municipalities, Counties, Townships, School Districts, Individual and Joint Self-Insurance Programs, and Independent Public Accountants.

FROM: Dave Yost
Ohio Auditor of State

SUBJECT: Rev. Code 9.833

I. Ohio Rev. Code § 9.833 Summary

Ohio Rev. Code § 9.833 provides the statutory authority to political subdivisions to engage a variety of methods to secure health care benefits for their officers or employees. Specifically, this statute allows political subdivisions to do any one or a combination of the following:

- (1) establish and maintain individual self-insurance health care benefit programs,
- (2) establish and maintain a health savings account program,
- (3) enter into agreements with other political subdivisions to jointly administer the individual self-insurance health care benefit programs of each,
- (4) enter into agreements with other political subdivisions to establish and maintain joint self-insurance health care benefit programs, and
- (5) enter into agreements with other political subdivision to jointly procure or contract for policies, contracts, or plans of insurance to provide health care benefits.[1]

Where an individual or joint self-insurance program is established by one of the methods referenced above, Ohio Rev. Code § 9.833 also provides certain requirements that each program must meet, including the provision of a yearly report from a member of the American academy of actuaries.[2]

Note: Edits to this bulletin result from SB 3, effective March, 2017, and from a change to OAC 117-2-03(B). In summary. ORC and OAC now require:
(1) Pools and other programs must prepare an actuarial report within 90 days of their fiscal year end (9.833(C)(1)).
(2) Pools and other programs must prepare and file unaudited GAAP statements with the AOS within 150 days of fiscal year end (9.833(C)(1), described in AOS Bulletin 2015-07).
(3) Pools and programs must be audited. As described below, pools and programs that are public offices per RC 117.01 will fulfill their audit requirement as described in 117, per III(A) in this Bulletin.

[1] ORC § 9.833(B)
[2] ORC § 9.833(C)

unaudited GAAP

II. Recent Legislative Changes

Recent legislative changes have increased the reporting requirements for individual and joint self-insurance programs, and have included certain self-insurance programs that were specifically exempted under previous law. House Bill 153, effective September 30th of this year, amended Ohio Rev. Code § 9.833 in the following manner:

- (1) In addition to the required report from a member of the American academy of actuaries, every individual or joint self-insurance program must now also provide a ~~certified audited~~ financial statement,
- (2) The report from a member of the American academy of actuaries, and the ~~certified audited~~ financial statement must be provided by the program administrator to the Auditor of State, and
- (3) Every individual or joint self-insurance program must include a contract with a certified public accountant for preparation of the certified audited financial statement.[3]
- (4) Under previous law, individual self-insurance programs in municipal corporations, townships and counties were not required to comply with divisions (C)(1), (2) and (4) of this section. The statute now only exempts self-insurance programs created solely by municipal corporations. Individual self-insurance programs created in townships and counties are now required to comply with all applicable provisions of the law. Generally, this means that county or township individual self-insurance programs are required to:
    - Provide to the Auditor of State a ~~certified audited~~ financial statement and a report of amounts so reserved and disbursements made from the relevant funds, together with a written report of a member of the American academy of actuaries, as provided in (C)(1),
    - Establish a reserve fund and reserve such funds necessary for the individual self-insurance program, as provided in (C)(2),
    - Include a contract with a certified public accountant and a member of the American academy of actuaries for the preparation of the written evaluations required under (C)(1).

unaudited GAAP

unaudited GAAP

III. Impact on Individual and Joint Self-Insurance Programs

<u>A. Programs Already Audited Pursuant to Chapter 117(Other than County and Township Individual Self-Insurance Programs)</u>

Most individual and joint self-insurance pools in existence in Ohio are currently subject to audit pursuant to Chapter 117 of the Ohio Revised Code. The individual and joint self-insurance programs already subject to such audit will not experience any change as a result of the amendments to Ohio Rev. Code § 9.833. The Chapter 117 audit of each will satisfy the requirements that the program provide a certified audited financial statement and include a contract with a certified public accountant.

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[3] ORC § 9.833

As a result, individual and joint-self insurance programs already being audited pursuant to Chapter 117 need take no additional action.

B. County and Township Individual Self-Insurance Programs

As stated above, county and township individual self-insurance programs are now required to comply with divisions (C)(1), (2) and (4). This will require that such programs create and fund the reserve account discussed in (C)(2) and contract with a member of the American academy of actuaries for the preparation of the actuarial report, as required by divisions (C)(1) and (4).

Counties and townships are already subject to audit pursuant to Chapter 117. The Chapter 117 audit of each will satisfy the requirements to provide a certified audited financial statement of the program and to include a contract with a certified public accountant.

C. Programs Not Audited Pursuant to Chapter 117

In addition to the programs referenced above, several individual and joint self-insurance pools exist in Ohio that are not currently being audited pursuant to Chapter 117, including Voluntary Employee Benefit Associations (VEBAs). Many of these programs were established prior to the enactment of Ohio Rev. Code § 9.833. As of the date of its enactment, however, this provision provided the necessary authority for each member political subdivision to participate in the individual or joint self-insurance program. As such, it is the opinion of the Auditor of State that these programs, despite the establishment date, are subject to provisions of Ohio Rev. Code § 9.833, including all requirements provided therein.

This now requires that all such individual and joint self-insurance programs have, in addition to the report from the actuary, a certified audited financial statement and a contract with a certified public accountant for the provision of such financial statement. ~~The individual and joint self-insurance programs must then provide the certified audited financial statement to the Auditor of State, pursuant to Chapter 117.~~[4]

IV. Responsibility of Member Political Subdivisions

Ohio Rev. Code § 9.833 mandates that individual and joint self-insurance pools take the actions detailed above. That provision, though, also provides the basic authority for political subdivisions to establish/participate in individual and joint self-insurance programs. As such, it is important to note that each member political subdivision has the responsibility to ensure that any program it participates in is in compliance with such provisions.

Pools and programs that are ***public subdivisions*** per 2744.01, but that are not ***public offices*** per RC 117.01(D) must submit unaudited GAAP statements to the AOS per OAC 117-2-03(B) and AOS Bulletin 2015-07. Per ORC 9.833(C)(4), individual and joint self-insurance programs shall contract with a CPA. Individual and joint self-insurance programs that are ***public offices*** per ORC 117.01(D) must comply with AOS audit contracting rules provided in ORC 117.11(C).

[4] ORC § 9.833(C)(1)

V. Timeline for Compliance

Individual and joint self-insurance programs are expected to comply with the above-referenced requirements for the 2012 audit year. There will be no retroactive application for the 2011 audit year.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2012-001

Auditor of State Bulletin

Date Issued: January 5, 2012

TO: All State Agencies, Boards, Commissions, State Universities, and Technical and Community Colleges

FROM: Dave Yost, Ohio Auditor of State

SUBJECT: Ohio Revised Code Section 117.43 (B) - Contract Procedures

The purpose of this bulletin is to provide state agencies with information regarding the authority and role of the Auditor of State in the procurement of auditing and accounting services by a state agency and to establish procedures for procuring these services.

This bulletin supersedes all previous communications from the Auditor of State regarding the contracting for auditing and accounting services, including Audit Bulletin 2008-008. The policy is not intended and should not be interpreted to relieve state agencies of their responsibility to fully comply with applicable state and federal procurement laws and directives.

Ohio Rev. Code Section 117.43 (B) states: "Except as otherwise provided in section 126.22 of the Revised Code or as otherwise provided by law, no state agency shall enter into a contract for auditing or accounting services without the approval of the auditor of state except with funds derived from nonpublic sources. The provisions of this section shall not apply to the legislative branch of government."

The key terms of Ohio Rev. Code Section 117.43 (B) are defined as follows:

- "Contract" is defined as an integrated written agreement of the parties incorporating the request for proposals, the proposal, and the written memorandum of agreement.
- "Auditing Service" is defined as an examination of financial statements, books, documents, records, or other evidence relating to the obligation, receipt, expenditure, or use of public money, including governmental operations relating to the obligation, receipt, expenditure, or use of public money.
- "Accounting Service" is defined as any advice or technical assistance rendered by a person that concerns the methods and records used to identify, assemble, analyze, classify, record and report financial information and data, including the design, implementation, and evaluation of a state agency's internal control system.
- "State agency" means every organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government as defined by Ohio Rev. Code Section 117.01 (F).

Because the definitions of auditing and accounting services are broad and encompassing, the following examples provide guidance as to the types of services that will or will not require approval of the Auditor of State in accordance with Ohio Rev. Code Section 117.43 (B).

The following auditing and accounting services **will** require approval by the Auditor of State:

- a financial statement audit
- a compilation or review of financial statements
- a compliance or internal control review
- a performance or operational audit
- a fraud or embezzlement audit
- a financial, federal single or programmatic audit of a sub-recipient of state or federal funds
- a Service Organization Controls (SOC 1) engagement (formerly SAS 70)
- a financial audit of a particular section/function/program of a state agency

The following auditing and accounting services **will not** require approval by the Auditor of State:

- a consulting engagement for actuarial or fixed asset valuation
- preparation of a cost allocation plan
- the hiring of temporary accountants for book entry functions
- the outsourcing of an accounting function
- procurement of information technology services

Where required, Auditor of State approval must be obtained in writing prior to the commencement of any procurement process for auditing or accounting services. Any contract for accounting or auditing services lacking Auditor of State approval shall be void and no payment shall be issued for services rendered under such contracts.

Requests for such approval must be submitted in writing and are to be directed to the Auditor of State, Chief Auditor with the following contact information:

Deborah Liddil, Chief Auditor – State Region
Auditor of State Dave Yost
88 East Broad Street, 10th Floor
Columbus, Ohio 43215
(614) 466-3402
~~DLLiddil@ohioauditor.gov~~

New e-mail address:
stateregion@ohioauditor.gov

This policy is effective January 1, 2012. Questions about this policy should be directed to the Auditor of State, Chief Auditor – State Region at 1-800-443-9275 or (614) 466-3402.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2012-004

Auditor of State Bulletin

Date Issued: April 09, 2012

TO: **County Treasurers, County Commissioners, County Auditors, and Independent Public Accountants**

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **County Land Reutilization Corporations**

Section 1724.04 of the Ohio Revised Code permits a county having a population of more than sixty thousand (60,000) as of the most recent decennial census, which has elected to adopt and implement the procedures to facilitate the effective reutilization of nonproductive land under Section 5722 of the Ohio Revised Code, the option to organize a "county land reutilization corporation" (CLRC) for the purpose of exercising the powers granted under Section 5722 (also known as a Land Bank). The county treasurer shall be the incorporator of the CLRC with the form of the articles of incorporation approved by resolution of the board of county commissioners. CLRCs are non-profit community improvement corporations and are formed to advance, encourage and promote the industrial, economic, commercial, and civic development of a community or area; or for the following purposes, as described in Section 1724.01(B)(2):

(a) Facilitating the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property within the county for whose benefit the corporation is being organized, but not limited to the purposes described in this Section;
(b) Efficiently holding and managing vacant, abandoned, or tax-foreclosed real property pending its reclamation, rehabilitation, and reutilization;
(c) Assisting governmental entities and other nonprofit or for-profit persons to assemble, clear, and clear the title of property described in this division in a coordinated manner; or
(d) Promoting economic and housing development in the county or region.

Recently, several counties have organized or are planning to organize CLRCs under Section 1724.04. Any CLRC organized under Section 1724, is a separate legal entity, subject to separate reporting and audit requirements. This bulletin outlines financial statement considerations and the annual reporting requirements for these entities.

Financial Statement Considerations

Potential Component Unit

Since CLRCs are separate legal entities, consideration should be given as to whether they meet the criteria to be a component unit of another governmental entity, such as the county. The criteria for determination of inclusion as a component unit are outlined in GASB Codification 2100, as modified by GASB 61.

Generally Accepted Accounting Principles

Sections 1724 and 5722 of the Ohio Revised Code potentially allow CLRCs to participate in a range of real property-related activities and transactions. Therefore, a complete listing of applicable accounting principles is beyond the scope of this bulletin. However, financial statement preparers and their auditors should be aware that GASB 62 includes potentially relevant guidance.

As just one example, paragraph 284 describes general revenue recognition guidance for a real property sale:

> "***Gain*** should be recognized in full when real estate is sold, provided (a) the gain is determinable, that is, the collectability of the sales price is reasonably assured or the amount that will not be collectible can be estimated, and (b) the earnings process is virtually complete, that is, the seller is not obliged to perform significant activities after the sale. Unless both conditions exist, recognition of all or part of the gain should be postponed." [1]

Other paragraphs of GASB 62 that potentially may apply include (but might not be limited to):

Transaction Type / Activity	**GASB 62 paragraphs**
Real property leases	232 – 238, 244 – 256
Real estate sales	282 – 349
Real estate projects	350 – 373

Certainly, other principles may apply as well.

Reporting Requirements

[1] Whether a CLRC should record sales as *gains* or *losses* (i.e. sales proceeds ***net*** of capitalized costs) or as *revenues* and *expenses* (gross) is a matter of judgment depending upon whether the CLRC views its principle business as buying and selling real property or not. Revenue and expense reporting normally applies to the principle business activities of an entity. Reporting net gains and losses normally applies to ancillary activities of an entity.

Per Section 1724.05 of the Revised Code, each community improvement corporation (CIC), including CLRCs, shall prepare an annual financial report that conforms to rules prescribed by the Auditor of State pursuant to Section 117.20 of the Revised Code, and is prepared according to generally accepted accounting principles (GAAP). The financial report is required to be filed with the Auditor of State within one hundred and twenty (120) days following the last day of the corporation's fiscal year, unless the Auditor of State extends the deadline. In addition, the financial report shall be published on the corporation's web site, or if the corporation does not have a web site, on the web site of the county in which the corporation is located.

For guidance regarding required financial statement filing with the Auditor of State's office, please refer to Auditor of State Bulletins 2001-003 and 2008-001 available at:
~~http://www.ohioauditor.gov/services/lgs/bulletins/default.htm~~.
http://www.ohioauditor.gov/publications/bulletins/2014.html

Failure to File Annual Financial Report

Per Section 1724.06, if any CIC, including CLRCs, 1) fails to prepare an annual financial report as required by Section 1724.05 and fails to file that report with the Auditor of State within ninety (90) days of the time prescribed for that filing **OR** 2) if the Auditor of State determines the CIC cannot be audited and declares it unauditable and the CIC fails to then prepare and file an annual report with the Auditor of State within ninety (90) days of the time the Auditor of State declared the CIC to be unauditable, the Auditor of State shall certify that fact to the Secretary of State. The Secretary of State then shall cancel the articles of incorporation of the CIC.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2012-006

Auditor of State Bulletin

Date Issued: **September 6, 2012**

TO: **Regional Councils of Governments and All Other Public Offices, IPAs**

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Regional Council of Governments Reporting Requirements under HB 487**

Recently enacted House Bill (HB) 487, requires regional councils of governments (COGs), created under Ohio Revised Code (ORC) 167, to notify the Auditor of State of their existence as follows:

> Under ORC 167.04(D)~~(1)~~, "~~Within ten [10] business days after forming a regional council of governments~~, the officers of the council shall notify the auditor of state of the regional council's formation ~~and shall~~ provide on a form prescribed by the auditor of state the information regarding the regional council the auditor of state considers necessary."

Eff. 10/29/18: provide a copy of the council's by-laws,

See additional requirements effective 10/29/18 included below.

> ~~Additionally, under ORC 701.60, any regional council of governments that was formed and is operating before the effective date of the amendment – September 10, 2012 - shall notify the Auditor of State of its existence within 30 business days and provide the information required under ORC 167.04 within 30 business days after the effective date (i.e. by October 23, 2012).~~

The Auditor of State has created an online reporting portal for regional COGs to meet the requirements of HB 487 on our website www.ohioauditor.gov. To directly access this reporting portal, please click here: ~~www.ohioauditor.gov/services/lgs/COG/Registration.aspx~~.

https://ohioauditor.gov/local/cog/

Every regional council of governments is required to provide the following information to the Auditor of State via the reporting portal ~~within the 10-day or 30-day deadlines~~ described above:

- Contact information – including the official name of the COG, mailing address, county of fiscal agent, telephone number, name of the contact person and email address;
- Date the COG was formed;
- List of participating and/or member organizations; and
- Copy of the COG's by-laws and governance structure (in a PDF format).

Additional ORC 167.40(D) Requirements (effective 10/29/18):
The council shall take no official action, other than formation, before notifying the auditor of state of its formation in accordance with this section. Any official action the council takes before making that notification, including entering into any contract, is void.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2012-007

Auditor of State Bulletin

Date Issued: September 12, 2012 - Revised August 2016, See Green Font
Revised December 2019, See Red Font

TO:

Agricultural Societies
Cemeteries
~~Family & Children First Councils~~
Libraries
Regional Planning Commissions
Townships
Water, Sewer, & Sanitary Districts
~~County Boards of Health~~
Conservancy Districts
Police/Fire/Ambulance Districts
Park/Recreation Districts
Solid Waste Districts
Villages
Independent Public Accountants
Airports/Transit/Port/Convention Facilitates/Finance Authorities
Community Improvement Corporations/Land Revitalization Corps
Community/Multi/Juvenile Correction Facilities
Council of Governments
Emergency Management/Planning Agencies
Joint Economic Development Districts/Zones
New Community Authorities
Soil and Water Conservation Districts/Boards
Special Improvement Districts
Transportation Improvement Districts/Projects
Visitor & Convention Bureau

FROM: **Dave Yost, Ohio Auditor of State**
SUBJECT: **Eligibility of Entities for Reduced Auditor of State Audit Procedures**

Ohio Revised Code Section 117.01(G) defines an "audit" as any of the following:

(1) Any examination, analysis, or inspection of the state's or a public office's financial statements or reports;

(2) Any examination, analysis, or inspection of records, documents, books, or any other evidence relating to either of the following:

(a) The collection, receipt, accounting, use, or expenditure of public money by a public office or by a private institution, association, board, or corporation;

(b) The determination by the auditor of state, as required by section 117.11 of the Revised Code, of whether a public office has complied with all the laws, rules, ordinances, or orders pertaining to the public office.

(3) Any other type of examination, analysis, or inspection of a public office or of a private institution, association, board, or corporation receiving public money that is conducted according to generally accepted or governmental auditing standards established by rule pursuant to section 117.19 of the Revised Code.

We recognize many smaller entities have limited transactions and/or risk which would allow our office to reduce the audit procedures necessary to meet Ohio Revised Code

Threshold increased to $200,000 beginning with audit periods ended 11/30/2019.

117.01(G). Therefore, effective for audit periods ending November 30, 2012 or after, the Auditor of State (AOS) will: 1) introduce an option for a basic audit for specific entity types with annual disbursements of ~~$100,000~~ or less and 2) expand the eligibility for agreed-upon procedures engagements in lieu of audits as outlined in AOS Bulletin 2015-001 (http://www.ohioauditor.gov/publications/bulletins/2015.html) from the current limit of $1 million to a new limit of $5 million or less in annual disbursements.

In addition to the above annual disbursement thresholds, entities must **not** be subject to financial reporting under generally accepted accounting principles (GAAP) and/or to any requirements which would require an audit in accordance with *Government Auditing Standards*, such as entities subject to a federal Single Audit or subject to an audit under any contract or agreement . To qualify, entities must also not be in fiscal emergency or have been declared unauditable for the prior audit period. The entity types eligible for these reduced services are in a revised list at the end of this bulletin.

Threshold increased to $200,000 beginning with audit periods ended 11/30/2019.

Entities with Annual Disbursements of ~~$100,000~~ or Less

Entities meeting the above criteria with annual disbursements of ~~$100,000~~ or less will be subject to a basic audit that is an on-site limited review of key internal controls and targeted tests of significant transactions, where appropriate. This review will be designed to assess if the entity is adequately maintaining necessary, up-to-date controls and records and conducting the business of the entity as required. The review will generally consist of on-site interviews with management and analysis and review of selected entity records. If the results of the audit are acceptable, the AOS will issue a report describing the basic audit was performed, matters noted indicating deficiencies and, where appropriate, recommendations for improvement. If the results of the basic audit are not acceptable, the AOS may decide an audit in accordance with *Government Auditing Standards* is required or, if records are not properly maintained, may declare the entity to be unauditable.

Due to the small size and generally limited transactions of these entities, the AOS believes the basic audit will serve to reduce audit costs for these governments while continuing to provide accountability for these entities' public moneys.

Threshold increased to $200,000 beginning with audit periods ended 11/30/2019.

Entities with Annual Disbursements of Greater than $~~100,000~~ but Less than $5 Million

Note: Bulletin 2009-012 has been superseded by Bulletins 2012-007 and 2015-001.

~~With Bulletin 2009-012~~, The AOS implemented agreed-upon procedures for smaller governments that meet certain criteria and have historically had "clean" audits. Effective for November 30, 2012 audit periods, the AOS will expand eligibility for these procedures to entities with from $1 million of annual disbursements to $5 million or less and will not automatically disqualify entities with a change in fiscal officer during the period.

~~All other requirements outlined in Bulletin 2009-012 still apply, including the requirement that a government may not go more than two audit cycles without a financial statement audit performed in accordance with auditing standards.~~

All governments eligible for either of these reduced audit services will continue to be responsible for notifying the appropriate AOS regional office if a financial audit is needed or desired or if the entity does not want to be considered for a basic audit or agreed-upon procedures. All local governments should also continue to file their annual financial statements with the Hinkle Annual Financial Data Reporting System (Hinkle System), as required by law and described in AOS Bulletin 2015-007. While the management of any eligible government already contracted with an Independent Public Accountant (IPA) should continue to work with the AOS and the IPA to revise the contract and Memorandum of Agreement to reflect performing agreed-upon procedures, all basic audits will be conducted by the AOS.

Eligibility for the basic audit and agreed upon procedures are also outlined in the attached flowchart. Note: Flowchart was removed from this Bulletin. See revised flowchart in Bulletin 2015-001.

We will continue to audit in accordance with generally accepted auditing standards (~~*GAAS* in the attached flowchart~~) for entities ineligible for agreed-upon procedures or a basic audit.

If you have any questions regarding this Bulletin, please contact the AOS Center for Audit Excellence at (800) 282-0370.

Dave Yost
Ohio Auditor of State

Potential Qualifying Subdivisions – per ORC 117.114(A)(1) [1]
• Agricultural Societies
• Airports/Transit/Port/Convention Facilities/Finance Authorities
• Cemeteries
• Community Improvement Corporations / Land Reutilization Corp
• Community/Multi/Juvenile Correctional Facilities
• Conservancy Districts
• Council of Government (with the exception of Insurance Consortiums) [2]
• Emergency Management/Planning Agency
• Joint Economic Development District (JEDD)/Joint Economic Development Zone (JEDZ)
• Libraries
• New Community Authorities
• Park / Recreation Districts
• Police, Fire, EMS & Ambulance Districts
• Regional Planning Commissions/Organizations
• Soil and Water Conservation Districts/Boards
• Solid Waste Districts
• Special Improvement Districts
• Townships
• Transportation Improvement District/Transportation Improvement Project
• Villages
• Visitor & Convention Bureaus (formerly called Convention and Visitors Bureaus)
• Water, Sewer, and Sanitary Districts
• Others (Eligibility determined on a case by case basis–(CFAE approval required)

[1] Note: Entity types have been modified to agree with entity types available on the updated 8138 Form. Although ORC 117.114 (A)(1) does not list all the entities in this list, the law permits the Auditor of State's office to determine on a case by case basis additional entities to be qualifying subdivisions.

[2] We do not have an entity category for Councils of Government (COGs); however entities identified as COGs in GP /formed under ORC 167, with the exception of insurance consortiums which are GAAP mandated, may be eligible for reduced services. (i.e. computer consortiums, developmental disability councils, etc.)

Dave Yost
Ohio Auditor of State

Bulletin 2012-008

Auditor of State Bulletin

Date Issued: October 19, 2012

TO: City Auditors and Finance Directors
County Auditors and Fiscal Officers
School District Treasurers
Community School Fiscal Officers
Independent Public Accountants

FROM: Dave Yost, Ohio Auditor of State

SUBJECT: Casino Revenue

In 2009, the voters approved operating four casino facilities in Ohio, including one within each of the cities of Cincinnati, Cleveland and Toledo and one within Franklin County.[1] A thirty-three percent tax will be levied and collected by the State of Ohio on all gross casino revenue received by each casino operator of these four casino facilities. The casino operators will file a return and make payment daily to the tax commissioner. These monies are deposited into the casino tax revenue fund.

The proceeds of the tax on gross casino revenue will be distributed as follows:

1. Fifty-one percent to the gross casino revenue county fund to be distributed among all eighty-eight counties in proportion to such counties' respective populations at the time of such distribution. If a county's most populated city, as of the 2000 United States census bureau census, had a population greater than 80,000, then fifty percent of that county's distribution will go to said city;

2. Thirty-four percent to the gross casino revenue county student fund to be distributed among all public school districts, to be used to support primary and secondary education;

3. Five percent to the gross casino revenue host city fund for the benefit of the cities in which casino facilities are located;

[1] Section 6 of Article XV, Ohio Constitution

4. Three percent to the Ohio state racing commission fund to support horse racing in this state at which the pari-mutuel system of wagering is conducted;

5. Two percent to the Ohio law enforcement training fund to support law enforcement functions in the state;

6. Two percent to the problem casino gambling and addictions fund to support efforts to alleviate problem gambling and substance abuse and related research in the state;

7. Three percent to the casino control commission fund to support the operations of the Ohio casino control commission and to defray the cost of administering the tax levied under section 5753.02 of the Revised Code.

Payments to the counties and cities will be made by the end of the month following the end of each calendar quarter.

Payments to the school districts will be made by the last day of January and by the last day of August of each year, beginning in 2013.

These payments will be made to the local governments by the department of taxation.

The casino money received by local governments is an allocation of the gross casino tax levied by the State of Ohio, and will be classified as intergovernmental revenue. Counties and cities should set up a separate revenue line item within the intergovernmental category. School districts should use receipt code 3190, "Other Unrestricted Grants-in-aid." There are no restrictions on the use of casino money; therefore, it should be receipted into the general fund.

Casino money is a state-levied shared tax and for GAAP reporting purposes, is accounted for like voluntary or government-mandated nonexchange transactions. Since no time requirements are specified, the applicable period is therefore the State of Ohio's fiscal year (July through June). At December 31, a county or city would record a receivable for the following January and April distributions. The entire amount will be recorded as revenue on the accrual basis; however, some or all of this amount may be recorded as deferred ~~revenue~~ under the modified accrual basis, depending on when the resources are received. Since school districts operate on the same fiscal year as the state, the full amount will be received by the end of the fiscal year.

Now classified as "deferred inflow" or "unearned revenue"

~~Addition information related to the gross casino revenue tax can be found on the Department of Taxation's web site:~~
http://tax.ohio.gov/divisions/gross_casino_revenue/index.stm.

If you have any questions regarding the information in this Bulletin, please contact the Local Government Services staff of the State Auditor's Office at (800) 345-2519.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2012-009

Auditor of State Bulletin

Date Issued: October 23, 2012

TO: County and Independent Agricultural Societies

FROM: Dave Yost, Ohio Auditor of State

SUBJECT: Sale of Intoxicating Beverages

The purpose of this Bulletin is to clarify whether county and independent agricultural societies established pursuant to Ohio Rev. Code Section 1711.01, *et seq*., may authorize the sale of intoxicating beverages at events conducted by a society and receive revenue from the sales and whether a society may use public funds to purchase intoxicating beverages for resale.

ANSWER:

A county or independent agricultural society board, subject to Ohio Rev. Code Section 1711.09 and Chapters 4301, 4303, and 4399 of the Ohio Revised Code, may authorize the sale of intoxicating beverages by a permit holder at a society event and receive proceeds from these sales if the properly adopted constitution and bylaws of the society permit. Public funds may not be used to purchase intoxicating beverages for resale by a county or independent agricultural society.

DISCUSSION:

Guidance for the use or expenditure of funds by county and independent agricultural societies is found in Ohio law, Auditor of State Bulletins, Opinions of the Attorney General and the Constitution and Bylaws of the individual agricultural society. For example, Ohio law limits the use of public money received by a society for "holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs or otherwise." [1] The major vehicle for furthering the purpose of an agricultural society is a fair event. Agricultural societies have expressed a desire to sell intoxicating beverages at these events and have asked whether this is permissible and who may engage in these transactions?
Ohio Law does not prohibit the sale of intoxicating beverages at events conducted by agricultural societies. R.C. Section 1711.09 provides guidance regarding the sale of alcoholic beverages. It states, for example, that the sale of intoxicating liquor on the fairground is subject to Chapters 4301, 4303, and 4399 of the Ohio Revised Code. R.C. 1711.09 directs that agricultural societies shall not permit during any fair, or for one week before or three days

[1] Ohio Rev. Code Section 1711.31 provides that income to the society in holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs, over and above the necessary expenses thereof, "shall be paid into the treasury of the society and used as a fund for keeping such grounds and buildings in good order and repair and for making other improvements deemed necessary by the society's directors."

after any fair, any dealing in spirituous liquors, a category of intoxicating beverages containing more than twenty one percent alcohol by volume. [2] It also addresses how proceeds received by an agricultural society should be spent. [3] Based upon these statutes, we conclude a county or independent agricultural society board, subject to Ohio Rev. Code Section 1711.09 and Chapters 4301, 4303, and 4399 of the Ohio Revised Code, may authorize the sale of intoxicating beverages under the restrictions provided by law.

Having established alcoholic beverages may be sold at an agricultural society event, the question remains whether a society itself may engage in these transactions? Significantly, R.C. 1711.09 directs how proceeds of alcoholic beverage sales are spent if an agricultural society contracts with a *permit holder* to sell alcoholic beverages. It states that any proceeds gained by the society from the *permit holder* and from activities coincident to the sale of intoxicating liquor are to be used; "first to pay the cost of insurance on all buildings on the fairground, and then for any other purpose authorized by law."

A permit holder purchases alcoholic beverages from a distributor authorized to sell or distribute alcoholic beverages to retail permit holders in this state. As stated by the Ohio Supreme Court, a distributor is a person engaged in the business of selling intoxicating liquors (alcoholic beverages) to retail dealers for the purpose of resale.[4] The issuance of liquor permits is controlled by the Ohio Liquor Control Commission. The Commission is the only public body permitted to control the sale and distribution of alcoholic beverages. It does so, in part, by issuing Permits for distribution and/or sale. The Commission is not authorized by law to issue a Permit to a public entity for the distribution or sale of alcoholic beverages.

It is well established that words and phrases shall be read in context and construed according to the rules of grammar and common usage. The rule is to apply a common and ordinary meaning to statutory language and draw reasonable inferences there from. A reading of the statutes discussed here leads us to conclude an agricultural society may not be a permit holder and otherwise engage in transactions involving alcoholic beverages. However, an agricultural

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[2] Intoxicating beverages containing less than twenty one percent alcohol by volume fall into the categories of intoxicating liquor, liquor, wine and beer. R.C. Section 4301.01 defines "Beer" as beverages brewed or fermented wholly or in part from malt products and containing one-half of one per cent or more, but not more than twelve per cent, of alcohol by volume. By definition "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. "Intoxicating liquor" and "liquor" include wine even if it contains less than four per cent of alcohol by volume, mixed beverages even if they contain less than four per cent of alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.

[3] Ohio Rev. Code Section 1711.09 (Forbidden Activities): Except as otherwise provided in this section, county agricultural societies, independent agricultural societies, and the Ohio expositions commission shall not permit during any fair, or for one week before or three days after any fair, any dealing in spirituous liquors.

Any sales of intoxicating liquor transacted on the fairground shall be subject to Chapters 4301, 4303, and 4399 of the Ohio Revised Code.

R.C. Section 4301.01 (5) "Spirituous liquor" includes all intoxicating liquors containing more than twenty-one per cent of alcohol by volume.

[4] *State ex rel. Peebles Sons Co. v. State Board of Pharmacy*, (1934) 127 Ohio St. 513.

society may authorize the sale of alcoholic beverages and receive proceeds of these sales from a Permit holder as provided by law.

It is well established the use of public funds of an agricultural society to purchase intoxicating beverages does not constitute a proper public purpose and is not permissible. In Auditor of State Bulletin 2003-05, in a discussion of public fund expenditures for a proper public purpose, the Auditor stated "the use of public funds to purchase alcohol will be considered arbitrary and incorrect and will be cited by the Auditor of State's Office." This standard continues to apply to agricultural societies.

An agricultural society Board should note that the Auditor will issue a citation where a society's constitution and bylaws do not authorize the sale of alcoholic beverages by a permit holder. Legislative authority (Board) is presumed to be the proper (actual) authority to establish policies. (See, e.g., Atty. Gen. Op. No. 2003-029 and AOS Bulletin 2004-002). The effective date of the policy and any amendments to the policy should be clearly indicated. Any such policy will be considered prospective in its application. Again, the absence of permission to engage in this activity will lead to a finding by the Auditor of State.

CONCLUSION:

A county or independent agricultural society board, subject to Ohio Rev. Code Section 1711.09 and Chapters 4301, 4303, and 4399 of the Ohio Revised Code, may authorize the sale of intoxicating beverages containing less than twenty-one percent of alcohol by volume by a permit holder on the fairground if the properly adopted constitution and bylaws of the society permit.

If you have any questions regarding this matter, please contact the Legal Division of the Auditor of State.

Dave Yost
Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2012-010

Auditor of State Bulletin

Date Issued: **December 12, 2012**

TO: **All County Auditors**
All County Clerk of Courts
All County Commissioners
All County Coroners
All County Engineers
All County Prosecuting Attorneys
All County Recorders
All County Sheriffs
All County Treasurers
Independent Public Accountants

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Compensation of Elected Officials – Transition in Officeholder**

With the end of the calendar year upon us, many officials will soon be assuming their newly elected positions. This bulletin outlines the requirements for transition in officeholders regarding compensation.

Terms of office for elected officeholders are generally set by statute and many times do not coincide with a calendar year. Guidance regarding this issue is contained in Ohio Attorney General (OAG) Opinions 1990-023 and 2002-006. While the guidance is specific to a county sheriff and a county treasurer, the same guidance would apply to other elected positions where the term of office and salary are set by statute.

As described in OAG 2002-006 in referencing OAG 1990-023, the annual compensation of a county officer must be prorated based on the number of days in that calendar year (January 1 to December 31) which were included in the officeholder's term of office. An official is not entitled to be paid for time not spent in office.

Therefore, when a change in officeholder occurs, the total payments to the two individuals for the calendar year must equal the total statutory salary for the elected position. Each officeholder's portion should be calculated to reflect the number of days in that calendar year which are included in his/her term of office.

Increases in statutory salaries for elected officials is another element for consideration in compensating officeholders during the transition in office; however, applicable Ohio Revised Code sections have not included a change in statutory salaries for county or township elected officials since December 31, 2008. If a change in salaries occurs in the future, guidance in Auditor of State

Bulletin 2001-001, *Compensation Increase Legislation Pertaining to Nonjudicial County Elected Officials*, should also be considered.

Questions about this bulletin should be directed to the Auditor of State's Legal Division at 614-752-8683.

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2013-003

Auditor of State Bulletin

Date Issued: **June 13, 2013**

TO: **All County and State Political Parties, Ohio Secretary of State, Ohio Elections Commissions, Ohio County Prosecutors, and Independent Public Accountants**

FROM: **David Yost**
Ohio Auditor of State

SUBJECT: **Political Party Checkoff Funds**

This bulletin addresses legal and auditing requirements of political "checkoff funds" under Ohio Rev. Code § 3517.18

Legal Requirement:

Ohio Rev. Code § 3517.16 creates the Ohio Political Party Fund (the Fund). Ohio Rev. Code § 3517.17 requires the Auditor of State to audit each state and county political party. Ohio Rev. Code § 3517.18 in turn describes permissible and impermissible expenditures of "checkoff funds." Ohio Rev. Code § 3517.18(A) lists six categories of permissible expenditures. All monies spent under RC 3517.18 must fall into one of the following six categories:

> (1) The defraying of operating and maintenance costs associated with political party headquarters, including rental or leasing costs, staff salaries, office equipment and supplies, postage, and the purchase, lease, or maintenance of computer hardware and software;
>
> (2) The organization of voter registration programs and get-out-the-vote campaigns and the costs associated with voter registration and get-out-the-vote activities, including, but not limited to, rental costs for booth spaces at fairs, festivals, or similar events if voter registration forms are available at those booths, printing costs for registration forms, mailing costs for communications soliciting voter registration, and payments for the services of persons conducting voter registration and get-out-the-vote activities;
>
> (3) The administration of party fund-raising drives;
>
> (4) Paid advertisements in the electronic or printed media, sponsored jointly by two or more qualified political parties, to publicize the Ohio political party fund and to encourage taxpayers to support the income tax checkoff program;
>
> (5) Direct mail campaigns or other communications with the registered voters of a party that are not related to any particular candidate or election;

(6) The preparation of reports required by law.

Auditing Requirement:[1]

For the purposes of an audit, it is not sufficient to rely solely on the statute. As explained in AU-C 500.A14-.A15, auditors will be looking for documentary evidence to support expenditures under Ohio Rev. Code § 3517.18. Auditors should inquire into the legality of expenditures that do not contain supporting documentation. However, inquiry alone will not suffice to support auditing conclusions; documentation must be provided. AU-C 500.A2.

Questions and Failure to Comply:

If political parties have questions regarding the propriety of expenditures under Ohio Rev. Code § 3517.18, rather than wait until the next audit, Ohio Rev. Code § 3517.18(C) provides a mechanism to resolve questions and avoid improper expenditures. The section states:

> If there is a question about the legitimacy of a party expenditure of public moneys, a designated agent of a political party receiving moneys from the Ohio political party fund may request the Ohio Elections Commission for an advisory opinion on the matter prior to making an expenditure of those public moneys. The commission shall afford the highest priority to a request made under this division.

The Auditor of State will accord deference to opinions issued by the Ohio Elections Commission.

Failure to conform to the statute or to provide sufficient documentation proving conformity to the statute may result in a finding for adjustment.

Questions concerning this bulletin should be addressed to the Legal Division of the State Auditor's Office at (800) 282-0370.

Dave Yost
Auditor of State

[1] The Auditor of State considers its current agreed-upon procedures to satisfy this audit requirement.

Dave Yost
Ohio Auditor of State

Bulletin 2013-004

Auditor of State Bulletin

Date Issued: June 25, 2013

TO: County Auditors, County Commissioners, County Sheriffs, County Prosecutors, County Treasurers, County Clerk of Courts, Ohio Attorney General Office, County Council Members & Fiscal Officers (Summit and Cuyahoga Counties), Buckeye State Sheriffs' Association and Independent Public Accountants

FROM: Dave Yost, Ohio Auditor of State

SUBJECT: Accounting for the New Arson Offender Registration Fee

SB 70 in the 129th Session of the General Assembly amended Ohio Rev. Code Sections 2909.13, 2909.14, and 2909.15, requiring the Attorney General to establish and maintain an Arson offender registry. In addition, the amendments require the court to notify an arson offender of his duty to register with the Sheriff in the county of residence. As part of this process, the Sheriff must collect a $50 initial registration fee and an annual $25 registration fee from each in-state or out-of-state offender who registers, although there is a provision allowing a waiver of the fee if the offender is indigent.

The revised Ohio Rev. Code Sections require the Attorney General to implement the registration process, design the forms and otherwise establish the administrative road map for implementation of the program. Among other requirements, the Sheriff must collect and remit the registry fees collected to the Attorney General on a quarterly basis. The Sheriffs, however, are not provided fund accounting guidance by SB 70.

An agency fund is the most appropriate fund to account for the activity since the fee cannot be retained by or used for benefit of the county itself, and must be remitted in full to the State. Agency funds are used to report resources held by the government in a purely custodial capacity. They typically involve only the receipt, temporary investment, and remittance of fiduciary resources to individuals, private organizations, or other governments.

The Sheriffs should establish an agency fund with the County Treasury to account for the collection and distribution of the Arson Registry Fee in accordance with Ohio Rev. Code Sections 2909.13, 2909.14, and 2909.15. Also, the county should remit the registry fees out

of the agency fund each quarter to the Attorney General on a warrant of the County Auditor. *This communication serves as the authorization Ohio Revised Code 5705.12 requires to establish this fund. (No additional Auditor of State approval is required to set up this fund.)*

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2013-005

Auditor of State Bulletin

DATE ISSUED: June 25, 2013

TO: School District Treasurers, School District Superintendents, OHSAA and Independent Public Accountants

FROM: Dave Yost
Ohio Auditor of State

SUBJECT: OHSAA Tournament Money

To increase financial accountability over athletic tournaments, the Ohio High School Athletic Association (OHSAA) is recommending school districts account for OHSAA tournament monies through an agency fund. To accommodate this, school districts may use a cost center within fund 022. This communication serves as the authorization Ohio Revised Code 5705.12 requires to establish this fund. (No additional Auditor of State approval is required/needed to set up this cost center.) This cost center is intended to be a clearing account to distribute tournament monies to other funds of the school district and to the OHSAA. At the conclusion of the tournament, the cost center should not have any remaining balance.

Agency funds report resources held by the school district in a purely custodial capacity. Agency funds are not intended to be used to pay school district costs.

Additional information related to handling tournament money is available from the OHSAA.

If you have any questions regarding the information in this Bulletin, please contact the Local Government Services staff of the State Auditor's Office at ~~(800) 345-2519.~~

(614)466-4717

Dave Yost
Ohio Auditor of State

Dave Yost
Ohio Auditor of State

Bulletin 2013-007

Auditor of State Bulletin

The accounting guidance in this Bulletin still applies to subsequent BWC rebates.

See rebate announcements at:
https://info.bwc.ohio.gov/wps/portal/bwc/site/news-and-events/all-news/!ut/p/z1/04_Sj9CPykssy0xPLMnMz0vMAfIjo8zi_S193D08TQz8LHxMLAwcwwLdXB0dLYyNjM30w9EUGFmYGzi6mXoG-7gH-puGmOhHEaPfAAdwNCCk34uQAqAPjIp8nX3T9aMKEksydDPz0vL1IxJzcnTzUsuLgfZHoZmA6QOwAjxOLMgNjajySQv2dFRUBAD09Rb7/dz/d5/L2dBISEvZ0FBIS9nQSEh/

Date Issued: **August 26, 2013, Clarified since August 23, 2013**

TO: **All Public Offices, Agencies, Boards, and Commissions**
Colleges, Universities and Community Schools
Independent Public Accountants

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **Bureau of Workers' Compensation (BWC) Rebate, Clarified**

Ohio's workers' compensation system is a mandatory, state-run insurance program, which provides coverage for employees suffering job-related injuries. In exchange for the payment of premiums by employers to the Bureau of Workers Compensation, the BWC provides payment of compensation to the injured employee while covering medical costs resulting from the job-related accident or disease.

As a result of what BWC attributes to a wise investment strategy, the annual return on invested contributions over the past three years totaled 11.4 percent, significantly exceeding the expected 4 percent return. In May, the Ohio BWC Board of Directors authorized a $1 billion rebate for more than 210,000 public and private entities paying into Ohio's workers' compensation system. Each employer's rebate will reflect 56% of what they were billed during the last policy period (2011 calendar year for public-taxing districts). Approximately $113 million of the $1 billion rebate went to local governments around the state.

BWC began mailing rebate checks to employers in late June and recently completed its distribution. BWC's website includes a description of the employer eligibility criteria for the rebate (https://www.ohiobwc.com/home/current/releases/2013/050213.asp). ~~Additionally, our AOS website includes a listing of rebate amounts paid to eligible employers (http://www.ohioauditor.gov/resources/ipa/PEC_all_employers.xlsx).~~

The Auditor of State has received numerous questions from local government officials asking to which funds they should apportion the rebate. After discussions with stakeholders and BWC staff, we prepared this bulletin to provide guidance for Ohio's local governments receiving rebates. Using **premiums attributed to the** 2011 **policy year** as the base year (year of calculation), local governments should allocate the rebate to all funds, including restricted funds, providing the source of the initial premium payments to Ohio BWC. Ohio Rev. Code §5705.10(D) mandates that all revenue derived from a source other than the general property tax, and which the law requires to be used for a particular purpose, shall be paid into a special fund for that purpose. Since Ohio BWC defines these payments as *rebates*, we believe local governments must return the prorated portion of the rebate attributable to local, state or federally-restricted funds to those funds based on this authority. Additionally, ~~OMB Circular A-87, Section C.4. *(Basic Guidelines)* requires federal costs to be "net of any applicable credit" for~~

Updated reference: CFR §200.46(a) " . . . To the extent that such credits [e.g. rebates] accruing to or received by the non-Federal entity relate to allowable costs, they must be credited to the Federal award either as a cost reduction or cash refund, as appropriate."

~~federally-funded programs. Paragraph C.4.a explains "credits" include "adjustments of overpayments. . . and rebates.~~"

Conversely, if local governments paid a portion of the **premiums attributable to the** 2011 **policy year** from individual departments (i.e., line-items) within a local governments' General Fund, it would be a decision for the local appropriating authority whether to assign the prorated portion of the rebate back to the departmental line-items or to re-appropriate such amounts in an unrestricted line-item of the General Fund.

Due to the timing of this guidance, we understand that some local governments may have deposited their full BWC rebate into their general fund without evaluation or apportionment to restricted funds. Where this is the case, the local government should calculate the appropriate apportionment to restricted local, state, and federal funds based upon the **premiums attributable to the** 2011 **policy year** and adjust its accounting records and related financial statements to reflect this apportionment.

Audits conducted by the Auditor of State and IPA firms will use the premiums **attributable to the** 2011 **policy year** to determine whether local governments apportioned their rebates to the appropriate funds.

A local government should contact the appropriate grantor agency for guidance if a federal or state grant program paid BWC premiums **attributable to the** 2011 **policy year** but ceased to exist as of the date the local government receives the BWC rebate. In this case, it will be up to the grantor agency to determine how the local government can use the portion of the rebate attributable to terminated grant program. The Auditor of State and IPA firms will audit the disposition of the rebate attributable to terminated programs in accordance with the guidance the local government receives from its grantor agency or legal counsel.

The BWC Board of Directors took all necessary steps to authorize the rebate in May of 2013. The BWC fund used to pay the rebates is not subject to appropriation. BWC has identified eligibility requirements for the rebate. At June 30, 2013, the local government rebate amounts were measurable and collectible. Therefore, school districts and other local governments with a June 30 fiscal year end should consider reporting a receivable for rebate amounts received after June 30th in accordance with generally accepted accounting principles.

If you have any questions regarding the information in this Bulletin, please contact the Center for Audit Excellence staff of the State Auditor's Office at (800) 282-0370.

Dave Yost
Ohio Auditor of State

Dave Yost • Auditor of State

Bulletin 2014-001

Auditor of State Bulletin

Date Issued: February 6, 2014

TO: All Public Offices and Independent Public Accountants

FROM: Dave Yost
Ohio Auditor of State

SUBJECT: Allocating Premiums from Local Government Bond and Note Sales

A number of Ohio public entities have inquired whether premiums they receive from their bond and note sales may be applied to project funds or must be applied to bond retirement funds. Historically low interest rates have resulted in an increase in the volume and size of premiums as investors seek "coupon protection" against interest rates rising in the future. As explained more fully below, the Ohio Revised Code generally requires premiums received by public entities to be applied solely to bond retirement funds. For bonds and notes issued on and after July 1, 2014, AOS will issue findings for adjustment when public entities apply bond and note premiums they receive to project funds instead of bond retirement funds.[1]

I. Factual Background

Local governments and school districts have experienced historically low interest costs on their bond and note issues since 2008. However, investors have been less willing to purchase bonds and notes with low stated interest rates. The solution has been for public entities to offer higher (i.e., above market rate) stated interest rates on the bonds and notes they issue in exchange for payment of a "premium" (i.e., an amount in excess of the principal or "face" amount of the bonds or notes) by the purchasers. This arrangement benefits both parties by giving purchasers the higher stated interest rates they seek and the public entity a premium to offset the higher interest costs resulting from those higher stated rates. However, it also poses an important legal question: must the premium be applied to the bond retirement fund, or may it be applied to the project fund?

II. Relevant Statutes

[1] This bulletin solely addresses the application of premiums to project funds. Auditor of State will not issue findings for adjustment, where premiums are used to cover financing costs, Ohio Rev. Code § 133.01(K).

Two statutes generally govern the allocation of premiums received by public entities from the sale of bonds and notes: Ohio Rev. Code §§133.32(B) and 5705.10(E) [2]. Section 133.32 states, in relevant part:

> **133.32 Depositing proceeds from sale.**
>
> Unless otherwise provided by law or in proceedings authorized by law, proceeds from the sale of Chapter 133. securities shall be deposited and credited as follows:
>
> …
>
> (B) Any amount received as payment of premium and accrued interest, and if determined by the taxing authority or the fiscal officer any amount for capitalized interest, and in the case of securities maturing over five or more years any amount provided for in the proceedings as a reserve for debt charges, not exceeding the highest debt charges on the securities in any fiscal year, shall be paid into the bond retirement fund and credited to accounts as provided in the legislation. (Emphasis added.)
>
> …

Section 5705.10(E) states:

> (E) All proceeds from the sale of public obligations or fractionalized interests in public obligations as defined in section 133.01 of the Revised Code, except premium and accrued interest, shall be paid into a special fund for the purpose of such issue, and any interest and other income earned on money in such special fund may be used for the purposes for which the indebtedness was authorized or may be credited to the general fund or other fund or account as the taxing authority authorizes and used for the purposes of that fund or account. The premium and accrued interest received from such sale shall be paid into the sinking fund or the bond retirement fund of the subdivision. (Emphasis added.)

The wording of the statutes, underlined above, clearly indicates the General Assembly's intent to require public offices to apply bond and note sale premiums solely to bond retirement funds. The only way around this requirement would be to read §133.32's language "Unless otherwise provided *** in proceedings authorized by law***" as permitting public entities to draft authorizing legislation in such a way as to permit the

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[2] Ohio Rev. Code Section 133.34(D) separately addresses the application of moneys, including premiums, received from the sale of securities issued to refunding outstanding general obligation bonds. Under its provisions, these amounts are to be deposited in the bond retirement fund or a separate escrow fund for the retirement of the refunded bonds.

application of premiums to funds other than bond retirement. The flaw in this approach is that all of §§133.32 and 5705.10(E) would, in practical effect, become merely advisory, and would side-step the legislature's preference for debt repayment. The State Auditor's Office reads the language, "Unless otherwise provided by law or in proceedings authorized by law****" narrowly. Unless there is a specific statutory provision authorizing the bond premium to be used other than for debt retirement, the statutory requirement for payment of any premium into the bond retirement fund may not be overridden merely by a public entity's own proceedings authorizing a sale of its bonds.

Even in an era of historically low interest rates which place unique pressures on public entities raising revenue, the State Auditor's Office may not ignore §§133.32(B) and 5705.10(E). Failure of a public entity to comply with these statutory provisions will result in a finding for adjustment against the project fund in favor of the bond retirement fund.

III. Implementation

Multiple public entities have contacted the State Auditor's Office on this issue requesting guidance. This Bulletin provides that guidance. Because local government and school district debt issues are complex and preparation of financing plans and related documents may occur over lengthy periods of time, this Bulletin will only go into effect for any bonds or notes issued on or after July 1, 2014.

Questions concerning this bulletin should be addressed to the Legal Division of the State Auditor's Office at (800) 282-0370.

Dave Yost
Ohio Auditor of State

Dave Yost · Auditor of State

Bulletin 2014-002

Auditor of State Bulletin

Date Issued: **July 3, 2014**

TO: **County and Independent Agricultural Societies**

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Sale of Intoxicating Beverages**

This Bulletin is an update to Bulletin 2012-009 relating to when county and independent agricultural societies established pursuant to Ohio Rev. Code Section 1711.01, *et seq*., may authorize the sale of intoxicating beverages at events conducted by a society and receive revenue from the sales and when a society may use public funds to purchase intoxicating beverages for resale in light of Ohio Attorney General Opinion 2013-023.

ANSWER:

A county or independent agricultural society board, subject to Ohio Rev. Code Section 1711.09 and Chapters 4301 (Liquor Control Law), 4303 (Liquor Permits), and 4399 (Prohibitions; Civil and Criminal Penalties) of the Ohio Revised Code, if it is reasonable to do so and its constitution and bylaws expressly permit it, may:

(1) authorize the sale of intoxicating beverages by a permit holder at a society event and receive proceeds from these sales;

(2) authorize a permit holder to have an event that is open to the public and conducted on the society's or county's fairgrounds and receive fees from the permit holder;

(3) use moneys provided by the state or a county to acquire alcoholic beverages and a liquor permit to sell the beverages at an event that is open to the public and conducted on the society's or county's fairgrounds and retain the revenue derived from the sales provided the money to be expended for the permit and beverages are not required to be used for other purposes. (*OAG Opn. No. 2013-023 followed.*)

DISCUSSION:

Guidance for the use or expenditure of funds by county and independent agricultural societies is found in Ohio law, Auditor of State Bulletins, Opinions of the Attorney General and the

Constitution and Bylaws of the individual agricultural society. For example, Ohio law limits the use of public money received by a society for "holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs or otherwise."[1] The major vehicle for furthering the purpose of an agricultural society is a fair event. Agricultural societies have expressed a desire to sell intoxicating beverages at these events and have asked whether it is permissible to do so and who may engage in these transactions.

Ohio Law does not prohibit the sale of intoxicating beverages at events conducted by agricultural societies. R.C. Section 1711.09 sets out the requirements, limitations, and guidance for such sale of alcoholic beverages. That section states, for example, that the sale of intoxicating liquor on the fairground is subject to Chapters 4301, 4303, and 4399 of the Ohio Revised Code. R.C. 1711.09 prohibits agricultural societies from permitting during any fair, or for one week before or three days after any fair, any dealing in spirituous liquors.[2] Spirituous liquor is a category of intoxicating beverages that contains more than twenty one percent alcohol by volume.[3] R.C. 1711.09 also addresses how proceeds received by an agricultural society should be spent.[4] Based upon these statutes, we conclude a county or independent agricultural society board, subject to Ohio Rev. Code Section 1711.09 and Chapters 4301, 4303, and 4399 of the Ohio Revised Code, may authorize the sale of intoxicating beverages under the restrictions provided by law. (*See also, OAG Opn. No. 2013-023.*)

The next question is whether an agricultural society may itself engage in these transactions? The issuance of liquor permits is controlled by the Ohio Department of Commerce, Division of Liquor Control. It is the only public body authorized to issue permits for the sale and distribution of alcoholic beverages.

The Ohio Attorney General has recently issued an opinion outlining the authority of an agricultural society to purchase and sell alcoholic beverages. The opinion states:

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[1] Ohio Rev. Code Section 1711.31 provides that income to the society in holding county fairs and from renting or leasing all or part of the grounds and buildings for the conduct of fairs, over and above the necessary expenses thereof, "shall be paid into the treasury of the society and used as a fund for keeping such grounds and buildings in good order and repair and for making other improvements deemed necessary by the society's directors."

[2] "Except as otherwise provided in this section, county agricultural societies, independent agricultural societies, and the Ohio expositions commission shall not permit during any fair, or for one week before or three days after any fair, any dealing in spirituous liquors * * *.

[3] "Spirituous liquor" includes all intoxicating liquors containing **more than twenty-one per cent** of alcohol by volume." R.C. 4301(B)(5). R.C. 4301, defines the various categories of alcohol for beverage purposes. "Intoxicating liquor" and "liquor" include "all liquids and compounds, other than beer, containing **one-half of one per cent or more** of alcohol by volume which are fit to use for beverage purposes * * *." R.C. 4301(A)(1). "Beer" includes "all beverages brewed or fermented wholly or in part **from malt products** and containing **one-half of one per cent or more, but not more than twelve per cent**, of alcohol by volume." R.C. 4301(B)(2). "Wine" includes "all liquids fit to use for beverage purposes containing **not less than one-half of one per cent** of alcohol by volume **and not more than twenty-one per cent** of alcohol by volume, which is **made from the fermented juices of grapes, fruits, or other agricultural products * * *."** R.C. 4301(B)(3).

[4] "Any agricultural society that permits the sale of intoxicating liquor on its fairground shall apply any proceeds gained by the society from the permit holder and from activities coincident to the sale of intoxicating liquor first to pay the cost of insurance on all buildings on the fairground, and then for any other purpose authorized by law."

> "A county agricultural society may use moneys provided by the state or a county to acquire alcoholic beverages and a liquor permit to sell the beverages at an event that is open to the public and conducted on the society's or county's fairgrounds and retain the revenue derived from the sales, provided (1) the society's constitution and bylaws permit the expenditure; (2) the moneys to be expended are not required to be used for other purposes; and (3) the expenditure is reasonable." *Syllabus ¶ 3, OAG Opn. No. 2013-023.*

The same rule applies if the funds used by the agricultural society for this purpose are derived from a source other than state or county funds.

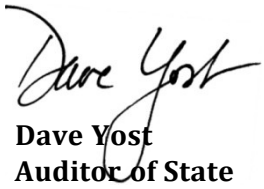
It is important to comply with the limitations the Attorney General has stated: (1) the society's constitution and bylaws must permit the expenditure; (2) the moneys to be expended are not required to be used for other purposes; and (3) the expenditure is reasonable. Consequently, the Auditor will issue a finding where a society sells alcoholic beverages, regardless of the source of the funds, if the society's constitution and bylaws do not authorize the sale of alcoholic beverages by a permit holder, if the moneys expended are required to be used for other purposes, or if the expenditure is not reasonable under the circumstances.

If an agriculture society chooses to amend its constitution and bylaws to permit the sale of alcoholic beverages, it must follow the proper procedure for doing so. The effective date of the society's amendments and any other action taken by the Board to implement the activities relating to the sale of alcoholic beverages must be clearly indicated. Moreover, any such policy change will be considered to be effective on a prospective basis only. The absence of properly adopted authorization to engage in this activity will lead to a finding by the Auditor of State.

CONCLUSION:

A county or independent agricultural society board, subject to Ohio Rev. Code Section 1711.09 and Chapters 4301, 4303, and 4399 of the Ohio Revised Code, may either authorize the sale of intoxicating beverages containing less than twenty-one percent of alcohol by volume by a permit holder on the fairground, or may do so itself, if the requirements explained in this bulletin and in OAG Opn. 2013-023 are fully complied with.

If you have any questions regarding this matter, please contact the Legal Division of the Auditor of State.



Dave Yost
Auditor of State

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Bulletin 2014-003

Auditor of State Bulletin

Date Issued: **July 3, 2014**

TO: **All Public Offices and Independent Public Accountants**

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Alcoholic Beverages Purchased for Resale at Public Events**

SUMMARY:

This Bulletin clarifies the Auditor of State's policy regarding the use of public funds and alcoholic beverages. This Bulletin does not apply to county agricultural societies established and organized under R.C. Chapt. 1711.

The Auditor of State (AOS) will continue to issue findings to public entities when public funds are used to purchase alcoholic beverages; however, a limited exception to this policy will be recognized when alcoholic beverages are purchased only for resale, such as at a festival, community event, or similar activity, pursuant to a valid permit issued by the Division of Liquor Control.

DISCUSSION:

In AOS Bulletin 2003-005, it is explained that "the use of public funds to purchase alcoholic beverages will be considered arbitrary and incorrect and will be cited by the Auditor of State's Office." That bulletin was primarily concerned with using public money to purchase alcoholic beverages for consumption, such as by or for an employee, for example. Accordingly, the Auditor of State since 2003 has consistently applied the policy that the use of public funds for the purchase and individual consumption of alcoholic beverages is improper.

Questions have been raised, however, as to how the Auditor of State will treat the use of public funds to purchase alcoholic beverages solely for resale at public events, such as at a festival, community event, or similar activity, when such purchases are made in conformity with a permit issued to the political subdivision by the Division of Liquor Control, Ohio Department of Commerce.

Chapter 4303, Ohio Revised Code, establishes the Division of Liquor Control as the agency responsible for issuing or denying liquor permits in accordance with the requirements of statute. The Division of Liquor Control has issued some types of permits to political subdivisions that have applied for permits. Generally, these are permits which are available to non-profit entities, are valid for a temporary period of time, and authorize the purchase and re-sale of alcoholic beverages within the restrictions of the permit. Because the Division of Liquor Control is the State of Ohio's statutorily designated authority for the regulation of alcohol, due deference will be given to the decisions of the Division in issuing permits. The Auditor of State, therefore, will not issue findings to a political subdivision when the Division of Liquor Control has granted the political subdivision a valid permit to purchase and re-sell alcoholic beverages;

This exception to the Auditor of State's continuing policy, that the use of public funds to purchase alcoholic beverages is not a proper public purpose, will be applied only if the expenditure satisfies all of the following conditions:

- The political subdivision obtained a valid permit from the Ohio Division of Liquor Control;
- The political subdivision complied with the terms of the issued permit;
- The political subdivision purchased the alcoholic beverages solely for resale to the public, e.g. at special events;
- The expenditure is reasonable;
- The proceeds are applied as required by any applicable statute or other controlling law (i.e. municipal charter, municipal ordinance, township resolution, or county resolution).

The use of public funds to purchase alcoholic beverages in any other context will continue to be viewed as improper, arbitrary and incorrect and not for a proper public purpose. The public entity making such expenditures, unless otherwise authorized by statute, will be subject to appropriate audit findings.

If you have any questions regarding this matter, please contact the Legal Division of the Auditor of State

Dave Yost
Auditor of State

Dave Yost • Auditor of State

Bulletin 2014-004

Auditor of State Bulletin

DATE ISSUED: **July 21, 2014**

TO: **All Public Offices and Independent Public Accountants**

FROM: **Dave Yost, Auditor of State**

SUBJECT: **Telephone ("Tele") Town Hall Meetings**

Multiple fiscal officers have recently asked the Office of the Auditor of State for guidance regarding the expenditure of public money to conduct telephone town hall meetings. The Attorney General recently opined in 2014 Op. Att'y Gen. No. 2014-005 that state and local governments may contract with private companies to organize and conduct telephone town hall meetings. A copy of the opinion may be found at http://www.ohioattorneygeneral.gov/getattachment/568886cc-f96e-456e-8ac7-8dfd09ad9f5d/2014-005.aspx. As the Attorney General cautions, however, the Treasurer of State may use public money to conduct telephone town hall meetings, "provided the moneys are not required to be used for another purpose and the expenditure is not prohibited by law." Although the Attorney General addressed the opinion to the Treasurer of State, the opinion applies to all public officials and public offices.

This office, pursuant to its authority under Chapter 117 of the Revised Code, is responsible for ensuring public money is expended for a legal, proper public purpose. This office has audited traditional town hall meetings for compliance with the proper public purpose doctrine for quite some time and will apply the same program to telephone town hall meetings. As explained in *State ex rel. McClure v. Hagerman*, 155 Ohio St. 320 (1951), an expenditure of public money constitutes a proper public purpose if: (1) the expenditure is required for the general good of all inhabitants; and (2) the primary objective of the expenditure is to further a public purpose, even if private ends are incidentally advanced.

Public officials should be aware that promoting partisan politics is not a proper public purpose. Indeed, expending public money in support of partisan politics could violate section 9.03(D) of the Revised Code. This section prohibits any "person" from knowingly conducting a direct or indirect transaction of public funds to the benefit of any of the following:

(1) A campaign committee;
(2) A political action committee;
(3) A legislative campaign fund;
(4) A political party;
(5) A campaign fund;
(6) A political committee;

(7) A separate segregated fund;
(8) A candidate.

Violating section 9.03(D) constitutes a misdemeanor of the first degree. Per section 117.28 of the Revised Code, the Office of Auditor of State will issue findings for recovery for illegal expenditures of public money for violations of section 9.03 of the Revised Code.

Public officials also should be aware they could be personally liable for illegal expenditures of public money. 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*. (1929), 120 Ohio St. 47; 1980 Op. Att'y Gen. No. 80-074; Ohio Rev. Code Section 9.39*; State, ex. Rel. Village of Linndale v. Masten* (1985), 18 Ohio St.3d 228. Public officials controlling public funds or property are liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen to the extent that recovery or restitution is not obtained from the persons who unlawfully obtained such funds or property. 1980 Op. Att'y Gen. No. 80-074.

In order to provide guidance to fiscal officers around Ohio, this office is providing the following list of documents which will constitute a "safe harbor" for auditing purposes. This list is not required by law and auditees may choose their own controls and procedures. If auditees keep these documents, however, they will constitute prima facie evidence that the auditee legally expended public money and this office will not issue findings for recovery against the auditee or the fiscal officer. The documents include:

- Entities should have policies and procedures governing the expenditure of public funds for telephone town hall meetings and the hiring of private companies to organize and conduct telephone town hall meetings;
- As with traditional town hall meetings, public offices should keep:
    - An agenda which formally documents the proposed topics and invitees at each telephone town hall meeting;
    - Evidence of the topics covered, such as minutes;
    - A document retention schedule for public records used during telephone town hall meetings.
- If your public office uses restricted dollars to organize a telephone town hall meeting, the proposed subject of the meeting must relate to the restricted fund's purpose.[1] For example, a meeting to discuss water utility rates should not be billed to the road and bridge fund.
- Reasonable notice must be given to the general public that a public meeting is taking place. The Attorney General correctly notes the strong tradition of citizens exercising their free speech rights to elected officials. Without reasonable notice, Ohioans will lack that opportunity. Notice should include when the meeting is taking place, the proposed topic, and how the public may join. For the purposes of meeting "safe harbor" under this bulletin, the official or officials calling the meeting shall give at least twenty-four hours' advance notice to the news media that have requested notification of the time, place, and purpose of the meeting.

[1] *See* Ohio Const. art. XII, § 5 ("every law imposing a tax shall state, distinctly, the object of the same, to which only, it shall be applied") and Ohio Const. art. XII,§ 5a (restricting expenditures of "moneys derived from fees, excises, or license taxes relating to registration, operation, or use of vehicles on public highways…"). *See also* Ohio Rev. Code 5705.10(C) (all revenue derived from a special levy shall be credited to a special fund for the purpose for which the levy was made).

- In order to demonstrate public dollars are being spent for a proper public purpose, public offices should have policies addressing how they will manage discussion without selectively prohibiting individuals from speaking based on the content of their speech. By necessity, public offices will have to limit the opportunity and time for speech to prevent multiple people from speaking at once during a telephone town hall meeting. Proper safeguards will demonstrate compliance with Section 9.03 of the Revised Code.
- A description of how the public body will select topics for telephone town hall meetings and evaluate them for relevance to the public office and its constituents.

Given the recent recognition by the Attorney General that public dollars can be used by public officials to conduct telephone town hall meetings, which have been used by public officials for over a decade, the Auditor of State anticipates reviewing documentation maintained by entities conducting telephone town hall conference call during the course of the next regular audit to confirm compliance with the Attorney General's Opinion and this Bulletin.

If you have any questions regarding this Bulletin please contact the AOS Center for Audit Excellence at (800)-282-0370.

Dave Yost
Auditor of State

Dave Yost · Auditor of State

Bulletin 2015-001

Auditor of State Bulletin

Date Issued: **March 9, 2015; Revised August 2016, See Green Font**
Revised December 2019, See Red Font

TO:

All AOS Financial Audit Staff
All Agricultural Societies
All Airports/Transit/Port/Convention Facilities/Finance Authorities
~~**All County Boards of Health**~~
All Cemeteries
All Community Improvement Corps/Land Revitalization Corps
All Conservancy Districts
All Visitors and Convention Bureaus
All Community Authorities
All Council of Governments
All Emergency Management/Planning Agencies
~~**All Family and Children First Councils**~~
All Police, Fire, EMS and Ambulance Districts
All Joint Economic Development Districts/Zones (JEDD)/(JEDZ)
All Libraries
All Community/Multi-County/Juvenile Correctional Centers
All Park/Recreation Districts
All Regional Planning Commissions/Organizations
All Solid Waste Districts
All Townships
All Transportation Improvement Districts/Projects
All Villages
All Water, Sewer, and Sanitary Districts
All Independent Public Accountants (IPAs)
All Special Improvement Districts
All Soil and Water Conservation District/Boards

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Clarification of Eligibility Requirements presented in Auditor of State Bulletin ~~2009-012~~ and 2012-007 and Modifications to Eligibility Requirements for Reduced Services for Small Government Clients**
Note: Bulletin 2009-012 has been superseded by Bulletins 2012-007 and 2015.001.

SUMMARY

The purpose of this bulletin is to clarify eligibility requirements presented in Auditor of State Bulletins ~~2009-012~~ and 2012-007 and detail the changes in the eligibility requirements for agreed-upon procedures (AUP) based on the passage of Ohio Revised Code Section 117.114. This law, which addressed certain AUP engagements, changed eligibility requirements for AUPs that are completed in lieu of financial audits. This law does not restrict our ability to perform other types of AUPs, such as community school close-out procedures, landfill, and other compliance type AUPs.
Note: Bulletin 2009-012 was superseded by Bulletin 2012-007.

CLARIFICATIONS OF ELIGIBILITY REQUIREMENTS - AUPS AND BASIC AUDITS

The following items are clarifications of the eligibility requirements that affect both AUP engagements and basic audits. These are not changes to the requirements, only additional clarifications to existing eligibility requirements.

1) Once a subdivision has been declared unauditable, it must have an audit in accordance with Generally Accepted Governmental Auditing Standards (GAGAS) before being eligible for any reduced services.

2) If a subdivision is in fiscal watch or fiscal caution, it could still be eligible to receive an AUP. However, if the subdivision is in the process of being declared in fiscal emergency, the AOS auditors or Independent Public Accountant performing the engagement must consult with the Center for Audit Excellence (CFAE) to determine whether the subdivision is still eligible for an AUP engagement. The subdivision becomes ineligible for an AUP once the fiscal emergency declaration occurs.

3) Ohio Revised Code section 117.114 (B)(2) requires the qualifying subdivision to follow the Auditor of State's regulatory, cash or modified cash basis of accounting. An entity may choose to report in accordance with accounting principles generally accepted in the United States of America (GAAP basis of accounting). If an entity chooses to report on the GAAP basis of accounting, although NOT REQUIRED to by law, the entity could still be eligible for an AUP engagement. However, no audit opinion will be issued on the GAAP financial statements of the entity as part of the engagement.

4) Initial audits of qualifying subdivisions are not eligible for reduced services. A full audit must be completed before a subdivision is eligible for either an AUP or a basic audit.

5) Financial statements are required to be filed with the Auditor of State regardless of the type of audit engagement performed. This filing requirement can be found in Ohio Revised Code Section 117.38.

6) Once determined eligible for reduced services (AUP or basic audit), the entity is required to document acceptance of the reduced services in a timely manner. If an otherwise eligible entity does not sign and return the required documentation to the Auditor of State by the established deadline, the entity will forfeit the reduced services and a GAGAS audit will be performed.

7) Boards of Health and Family and Children First Councils (FCFC) that receive money from the Ohio Department of Health are no longer eligible for reduced audit services (neither AUPs nor Basic Audits). Full GAGAS audits are required for Boards of Health and FCFCs.

CHANGES TO AUP ELIGIBILITY

The following changes have been made to AUP eligibility with the passage of Ohio Revised Code Section 117.114, which was effective September 4, 2013.

1) Previously, eligibility was determined by actual expenditures; however, with the passage of Ohio Revised Code Section 117.114 (B)(1) the qualifying subdivision's annual budgeted expenditures are used to determine eligibility. The dollar threshold for eligibility (not to exceed $5 million dollars for any fiscal year) remains the same.

Budgeted expenditures will be defined as the final approved appropriation measure (including transfers). The appropriation measure must be approved by the governing body prior to the fiscal year end.

NOTE: Budgeted expenditures must be under $5 million for each year. If the engagement covers a two year period, and one year's budgeted expenditures exceeds $5 million, the qualifying subdivision is not eligible for an AUP.

2) Ohio Revised Code Section 117.114 (B) (3) requires the fiscal officer or bookkeeper of the qualifying subdivision did not leave office at any time during the audit period in question. This requirement had previously been removed from the eligibility requirements; however, the statute reinstates this requirement.

3) The passage of Ohio Revised Code Section 117.114 (B)(7) requires that to be eligible for an AUP, the qualifying subdivision should have no audit fees in arrears. If there are outstanding audit fees at the time eligibility is initially determined but the audit fees are paid prior to the start of the engagement, the entity could still be eligible for an AUP engagement.

NOTE: A waiver may be requested if one eligibility requirement is not met. ORC Section 117.114, allows the Auditor of State to waive only one requirement.

BASIC AUDIT ELIGIBILITY:

The dollar threshold basis for basic audits increased to $200,000/yr ($400,000 aggregate for 2 yrs) effective for audit periods ended 11/30/2019 and later. Actual annual expenditures are used as the basis to determine eligibility.

AUP and BASIC AUDIT INFORMATION for COMMUNITY IMPROVEMENT CORPORATIONs:

Despite Community Improvement Corporations (CIC) having a mandatory GAAP filing requirement, if a CIC meets all other requirements for a basic audit, a basic audit can be performed. Previously "site visits," were completed for CICs with little activity. "Site visits" will no longer be performed.

AUP and BASIC AUDIT INFORMATION for CONVENTION AND VISITORS BUREAUs:

Note: Bulletin 2009-012 has been superseded by Bulletins 2012-007 and 2015.001.

Reminder: The AUP eligibility requirements portion of this bulletin does not apply to Convention and Visitors Bureaus (CVBs). ~~Auditor of State Bulletin 2009-001 indicates~~ The Auditor of State no longer requires audits of CVBs to be performed in accordance with auditing standards generally accepted in the United States of America and Government Auditing Standards. Instead, we follow the American Institute of Certified Public Accountants' attestation standards and perform agreed-upon procedures over receipts and disbursements of public funds. Non-public dollars are not included in the agreed-upon procedures unless commingled with public dollars. ~~Please refer to Auditor of State Bulletin 2009-001 for engagements concerning a convention and visitors bureau.~~

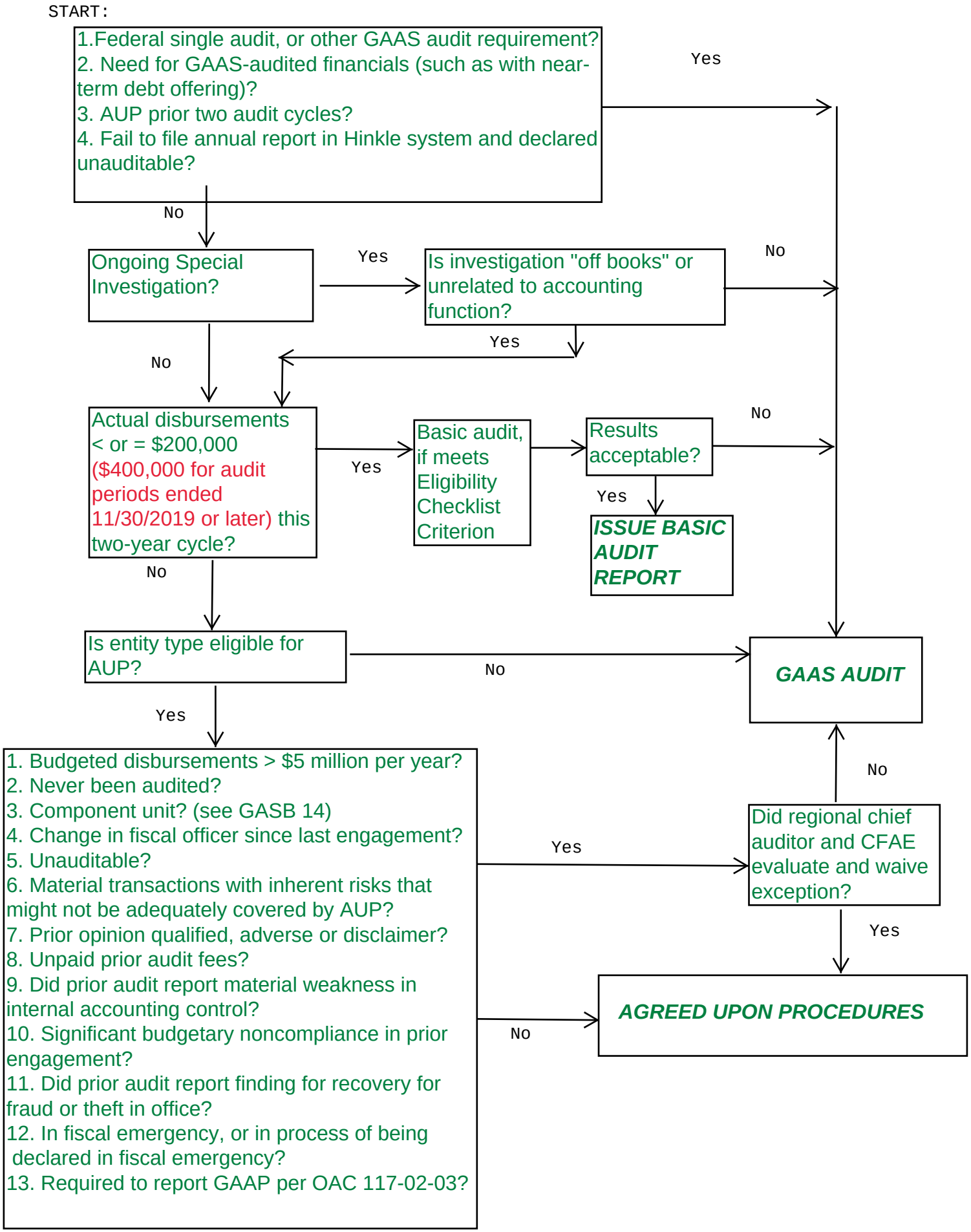
CVBs are now included in the entity types potentially eligible for basic audits. For a CVB to be eligible for a basic audit, the entity must meet the same eligibility requirement as other entities. However, unlike the AUP procedures for a CVB that exclude review of any nonpublic funds, if a CVB is eligible and requests a basic audit, procedures will include review of bank reconciliations of public and non-public monies. Non-public money will only be reviewed when verifying cash balances. All other procedures are performed regarding public monies only.

For a complete list of eligibility requirements, please refer to ORC Section 117.114, Auditor of State Bulletin ~~2009-012~~ and 2012-007, and the current eligibility checklists which can be found on the Auditor of State's website at:
https://ohioauditor.gov/references/shells/opinions.html

If you have any questions regarding this Bulletin please contact the AOS Center for Audit Excellence at (800)-282-0370.

Dave Yost
Auditor of State

Eligibility, as revised by Bulletin 2015-01 and RC 117.114



Dave Yost • Auditor of State

Bulletin 2015-002

Auditor of State Bulletin

DATE ISSUED: **March 26, 2015**

TO: **All Officials of Ohio Townships**
All Officials of Ohio Cities and Villages
All Officials of Ohio Schools
Ohio Prosecuting Attorneys

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Effects of the Affordable Care Act (ACA) on Reimbursement of Health and Hospitalization Insurance Premiums, or Reimbursement for Medicare Parts B and D Premiums**

SUMMARY

A number of Ohio townships and representatives of the Ohio Township Association have inquired of the Auditor of State (AOS) as to the impact of the Affordable Care Act (ACA) on the practice of Ohio townships reimbursing employees and officers for hospitalization and health insurance premiums, and Medicare Parts B and D premiums. AOS has monitored the situation and researched relevant issues, and this Bulletin is provided to update Township officials on the status of the matter. In addition, AOS has prepared and is submitting to Ohio Attorney General Mike DeWine a request for an opinion which solicits his guidance as to these issues. Although this Bulletin is issued in response to concerns raised by Ohio townships and the Ohio Township Association, and describes statutory insurance reimbursement procedures which relate only to townships, other governmental entities may be providing similar reimbursement arrangements by local determination or as part of a collective bargaining agreement. The discussion contained in this Bulletin which relates to township insurance reimbursement arrangements may be applicable equally to such local arrangements.

I. FACTUAL BACKGROUND:

Many, if not most, Ohio townships provide reimbursement to township officers and employees for insurance premiums incurred by the officer or employee in securing health

and hospitalization insurance coverage from a source other than the township, and for the Medicare Parts B and D premiums of qualifying employees. This longstanding practice permits the township to facilitate the maintenance of insurance coverage for the protection and benefit of its employees and officers and their dependents with due regard to the cost of the coverage in public dollars. With the enactment of the ACA, Federal authorities have issued conflicting directives which suggest that these practices may constitute violations of provisions of that voluminous legislation and may subject townships engaging in the same to penalty.

Under Section 117.10(A) of the Ohio Revised Code, AOS is required to "…audit all public offices as provided…" in Chapter 117. Pursuant to Sections 117.11 and 117.01(G)(2)(b), all such audits are to include "[t]he determination by the auditor of state…of whether a public office has complied with all the laws, rules, ordinances, or orders pertaining to the public office." Further, Section 117.101 of the Ohio Revised Code requires that the Ohio Auditor of State "…provide, operate, and maintain a uniform and compatible computerized financial management and accounting system known as the uniform accounting network[.]" for the benefit and use of "…public offices, other than state agencies and the Ohio education computer network and public school districts…" The Uniform Accounting Network created under this authority includes provision for the reimbursement practices discussed in this Bulletin.

II. RELEVANT STATUTES:

Section 505.60 Insurance for officers and employees, alternatives

Section 505.60 of the Ohio Revised Code empowers boards of trustees of Ohio townships to "…procure and pay all or any part of the cost of insurance policies…" for the benefit of the "…officers and employees…" of the township which provide a number of designated types of insurance protection, including "…hospitalization, surgical care, major medical care…medical care…" That section provides further that, "[i]f any township officer or employee is denied coverage under a health care plan procured under this section or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium attributable to the coverage provided for the officer or employee and their immediate dependents for insurance benefits described in division (A) of this section that the officer or employee otherwise obtains…" within certain limitations and under certain conditions.

Section 505.601 Reimbursement for out-of-pocket insurance premiums

Section 505.601 of the Ohio Revised Code is applicable to a township which "…does not procure an insurance policy or group health care services as provided in section 505.60 of the Revised Code…" In such instances, the enactment empowers the township to "…reimburse any township officer or employee for each out-of-pocket premium attributable to the coverage provided for that officer or employee for insurance benefits described in division (A) of section 505.60 of the Revised Code, that the officer or employee obtains…" within certain limitations and under certain conditions.

Section 505.603 Cash payments in lieu of benefits; health and wellness benefits; deduction from salary or wages

Section 505.603 of the Ohio Revised Code permits an Ohio township "[i]n addition to or in lieu of providing benefits to township officers and employees under section 505.60, (or) 505.601…of the Revised Code…" to "…offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the 'Internal Revenue Code of 1986', 100 Stat. 2085, 26 U.S.C.A. 125, as amended." This section, as well, sets out certain limitations and conditions to the provision of such a benefit.

OHIO CONSTITUTION, ARTICLE II, SECTION 20: Legislature to fix terms and compensation; no compensation change during term

Article II, Section 20 of the Ohio Constitution provides that the Ohio General Assembly is to fix the term of elected officials and determine the compensation afforded such officers. The provision prohibits, however, any change in compensation which affects the compensation of any officer during his or her existing term, unless the office is abolished.

AFFORDABLE CARE ACT

On March 21, 2010, the United States Congress passed the "Patient Protection and Affordable Care Act" (Public Law 111-148) which was signed into law by President Barack Obama on March 23, 2010. That enactment, together with the "Health Care and Education Reconciliation Act" which was signed on March 30, 2010, codifies amendments to the United States Internal Revenue Code and certain provisions contained within Title 42 of the United States Code, and constituted a significant regulatory overhaul of the United States health care system and its processes.

III. FEDERAL INTERPRETATIONS AND DIRECTIVES

Subsequently, the United States Internal Revenue Service ("IRS Notice 2013-54"), and the United States Department of Labor ("Department of Labor Technical Release 2013-03") issued guidance and directives on the subject of employer reimbursement of health and hospitalization premiums. This material was widely interpreted to mean that, under the Affordable Care Act, it remained permissible for employers to reimburse employees for health and hospitalization insurance premiums as to policies secured by the employee other than through the employer, but that any reimbursement amounts would be subject to personal tax liability attributable to the employee, and that no such reimbursement could be made with pre-tax or untaxed dollars.

On November 6, 2014, however, the Department of Labor, Employee Benefits Security Administration issued a document entitled "FAQs about Affordable Care Act Implementation (Part XXII)". "Q1" contained therein sets forth: "My employer offers employees cash to reimburse the purchase of an individual market policy. Does this

arrangement comply with the market reforms?" Thereafter, the document indicates in response that:

> "No. If the employer uses an arrangement that provides cash reimbursement for the purchase of an individual market policy, the employer's payment arrangement is part of a plan, fund or other arrangement established or maintained for the purpose of providing medical care to employees, without regard to whether the employer treats the money as pre-tax or post-tax to the employee. Therefore, the arrangement is group health plan coverage within the meaning of Code Section 9832(a), Employee Retirement Income Security Act (ERISA) section 733(a) and PHS Act Section 2791(a), and is subject to the market reform provisions of the Affordable Care Act applicable to group health plans. Such employer health care arrangements cannot be integrated with individual market policies to satisfy the market reforms, and, therefore, will violate PHS Act sections 2711 and 2713, among other provisions, which can trigger penalties such as excise taxes under section 4980D of the Code. Under the Department's prior published guidance, the cash arrangement fails to comply with the market reforms because the cash payment cannot be integrated with an individual market policy."

Under Section 146.145 of the Code of Federal Regulations, a "group health plan" is defined as "…an employee welfare benefit plan to the extent that the plan provides medical care (including items and services paid for as medical care) to the employees (including both current and former employees) or their dependents (as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise)."

Recently, the United States Internal Revenue Service issued a document entitled "Notice 2015-17" which bears on these issues. As part of the same, it is indicated that:

> "This notice reiterates the conclusion in previous guidance addressing the employer payment plans, including Notice 2013-54, 2013-40 I.R.B. 287, that employer payment plans are group health plans that will fail to comply with the market reforms that apply to group health plans under the Affordable Care Act (ACA). For this purpose, an employer payment plan as described in Notice 2013-54 refers to a group health plan under which an employer reimburses for some or all of the premium expenses incurred for an individual health insurance policy or directly pays a premium for an individual health insurance policy covering the employee, such as arrangements described in Revenue Ruling 61-146, 1961-2 C.B. 25."

The notice indicates, however, that the decision has been made to allow "…transition relief from the assessment of excise tax under Internal Revenue Code (Code) Section 4980D for failure to satisfy market reforms in certain circumstances." The "relief" which is to be allowed applies to any employer which is not "…an Applicable Large Employer (ALE) under Code Section 4980(H)(C)(2) and Sections 54.4980(H-1(a)(4) and -2…(and) Medicare premium reimbursement arrangements…" Further, the notice provides that, as part of the "relief" which will be provided, qualifying employers will not be subject to "…the excise tax under Code Section 4980(D)…asserted for any failure to satisfy the market reforms by

employer payment plans that pay or reimburse employees for individual health policy premiums or Medicare Part B or Part D premiums (1) for 2014 for employers that are not ALEs for 2014, and (2) for January 1 through June 30, 2015 for employers that are not ALEs for 2015." Generally an Applicable Large Employer is an employer which employs fifty or more full-time employees or the equivalent of the same. It is indicated, however, that "[a]fter June 30, 2015, such employers may be liable for the Code Section 4980(D) excise tax." In addition, it is indicated that employers eligible for the relief "…are not required to file IRS Form 8928 (regarding failures to satisfy requirements for group health plans under Chapter 100 of the Code, including the market reforms) solely as a result of having such arrangements for the period for which the employer is eligible for relief."

IV. CURRENT STATUS

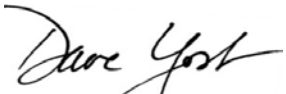
Part IV superseded by Bulletin 2017-02.

~~As is indicated above, after issuing a conflicting position, Federal authorities have concluded that any Ohio township which engages in the insurance reimbursement practices allowed under Ohio law render the township a group health plan for the purposes of the ACA. It is their contention that any such "plan" is in violation of certain standards imposed upon group plans by the act, and, therefore, that any township which continues to provide reimbursement is subject to financial penalty. Smaller employers (generally those employing fewer than fifty employees), and those providing reimbursement for Medicare Parts B and D premiums to eligible employees will be exempted from penalty for 2014 and for activities through June 30, 2015. It has been clearly indicated that it is the position of the Federal government that any such reimbursement practices in which a township engages from July 1, 2015, and thereafter may result in punitive, financial assessments.~~

~~Obviously, this matter is of very great concern to Ohio townships, many of which have a longstanding history of the reimbursement which Federal authorities now attempt to proscribe. In addition, the interpretation of the ACA which has been adopted, and the Federal position threatens the capacity of Ohio townships to provide or to assist in the provision of insurance coverage to many township employees and officers and members of their families. Township officials have a limited time to address these matters and to consider their options. Any modification of a township's reimbursement practices or provision of insurance coverage must be examined in light of the Ohio constitutional prohibition related to in-term increases or decreases in the compensation of township elected officials.~~

~~AOS will continue to monitor the situation and to provide information to stakeholders as it may become available to us. It has been indicated to AOS that some townships have been advised by their legal counsel to stop reimbursement practices and have done so while others continue to reimburse. In view of these facts, the UAN provision related to reimbursement will be maintained in the system at least through June 30, 2015, with further determination as to its existence to depend on developments in the interim. In addition, AOS has forwarded to Ohio Attorney General Mike DeWine a request for an opinion on a number of issues relevant to this situation with the additional request that, in view of the gravity of this situation and the limited timelines, he expedite his response. AOS will provide township officials with General DeWine's opinion as soon as it is available.~~

Questions concerning this Bulletin should be addressed to the Legal Division of the State Auditor's Office at (800) 282-0370.



Dave Yost
Auditor of State

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Bulletin 2015-003

Auditor of State Bulletin

DATE ISSUED: **March 27, 2015**

TO: **City Engineers and Finance Directors**
County Engineers, Auditors, and Fiscal Officers
Village Fiscal Officers
Township Fiscal Officers
Ohio Department of Transportation
Independent Public Accountants

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **Legislative Changes and Clarifications Regarding Force Account Projects (Sections 5517.02, 5517.021, 117.16, R.C.)**

SUMMARY

We have deleted these bulletins. Guidance from them that still applies is in OCS steps 2-16, 2-17 and 2-18.

This bulletin explains force account changes implemented by House Bill 51 (130th General Assembly) effective July 1, 2013, and clarifies certain requirements for force account projects constructed by or in conjunction with the Ohio Department of Transportation (ODOT). In addition to this Bulletin, the Auditor of State issued three previous bulletins regarding force account projects: ~~2008-004, 2007-001, and 2003-003~~. Public offices should review these bulletins when initiating force account projects.

<u>Force Account Limits (5517.02, R.C.)</u>

House Bill 51 increased the statutory limit for ODOT force-account projects to $30,000 per centerline mile of highway and to $60,000 for any traffic control signal or any other single project. The Bill also requires the ODOT Director to increase these limits on the first day of July of every odd-numbered year beginning in 2015 by the lesser of three per cent or the percentage increase in ODOT's construction cost index, as annualized and totaled for the two prior calendar years. The Director shall publish the applicable amounts on ODOT's website.

Work Exempt from Competitive Bidding/Force Account Requirements (5517.021, R.C.)

Section 5517.021, R.C. allows ODOT to do the following without competitive bidding:

- Replace any single-span bridge in its substantial entirety or widen any single-span bridge, including necessary modifications to accommodate widening the existing substructure and wing walls. The deck area of the new or widened bridge may not exceed 700 square feet as measured around the outside perimeter of the deck.
- Replace the bearing, beams, and deck of any bridge on that bridge's existing foundation if the deck area of the rehabilitated structure does not exceed 800 square feet.
- Construct or replace any single-cell or multi-cell culvert whose total waterway opening does not exceed 52 square feet.
- Pave or patch an asphalt surface if the operation does not exceed 120 tons of asphalt per lane-mile of roadway length. The Department may not perform a continuous resurfacing operation under this section if the cost of work exceeds the amounts established in R.C. Section 5517.02.
- Approach roadway work, extending not more than 150 feet as measured from the back side of the bridge abutment wall or outside the edge of the culvert, as applicable. The length of the approach guardrail shall be in accordance with ODOT's design requirements and shall not be included in the approach work size limitation.

These projects are not subject to the force account requirements of 117.16, R.C., do not require an estimate, and are exempt from audit for force account purposes except to determine compliance with applicable size or tonnage restrictions.

Force Account Assessment Forms (117.16, R.C.)

Effective June 16, 2014, ODOT replaced the Transportation Management System with the Enterprise Information Management System (EIMS).

Regardless of cost, Section 117.16, R.C. requires public entities to estimate a project's cost using a form approved by the Auditor of State. However, for projects constructed by or in conjunction with ODOT, estimates may be prepared using the Department's EIMS. Estimates prepared with EIMS are acceptable in lieu of the Auditor of State's force account project assessment form if they include all the necessary elements of an estimate required by 117.16, R.C.

Whether prepared using the AOS form, EIMS, or another standard ODOT form, an estimate is required and documentation supporting it should be retained for **ALL** projects, unless specifically exempted by R.C. If the total estimated cost exceeds the statutory limits defined in R.C., the project must be competitively bid.

Questions concerning this bulletin shall be addressed to the Auditor of State's Center for Audit Excellence at (800) 282-0370.

Dave Yost
Ohio Auditor of State

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Bulletin 2015-004

Auditor of State Bulletin

DATE ISSUED: April 30, 2015

TO: All Public Offices, Agencies, Boards, and Commissions
Colleges and Universities
Community Schools
Independent Accountants

FROM: Dave Yost, Auditor of State

SUBJECT: Joint *Interim* Final Rule on Changes to Federal Programs and Single Audits – OMB's New Uniform Guidance

On June 13, 2011, the President issued an Executive Order on delivering an efficient, effective, and accountable government. In response to this Order, the Office of Management and Budget (OMB) created the Council on Financial Assistance Reform (COFAR) to provide recommendations to OMB on policies and actions necessary to carry out this Order.

The purpose of this Bulletin is to highlight the key changes to Federal programs and single audits. AOS Bulletin 2013-006 addressed the *proposed* OMB Revisions, issued by OMB and COFAR, to Circular A-133 and Other Grant Management Requirements.

- On December 26, 2013, OMB issued their 'final' rule in 2 CFR Chapter II, Part 200 titled *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,* also known as the Super-circular, Omni-circular, Uniform Guidance, or Grants Reform. We will refer to the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* throughout this Bulletin as the "Uniform Guidance." **While this document was called 'final', there were, and still are changes being made to it.**
- COFAR issued and updated various Frequently Asked Questions (FAQs) in February, August, and November 2014, to assist entities and their auditors in implementing the Uniform Guidance.
- On December 19, 2014, OMB issued their 'Joint Interim Final Rule' in 2 CFR Chapter II, Part 200 which included several technical corrections that were needed to the *final* guidance issued on December 26, 2013.

- On the same date, each federal awarding agency joined together to adopt the Uniform Guidance in their respective chapters of Title 2 of the CFR. At this time, agencies could request OMB approval for exceptions to the Uniform Guidance, which OMB only approved where they were consistent with existing federal agency policy. **A listing of the exceptions granted is available on COFAR's website.** Agencies receiving such approval have included the resulting language in their regulations contained in the *Joint Interim Final Rule.*
- This Rule was effective on December 26, 2014.
- **However, OMB included 'interim' in the title, as it had a 60 day comment period. OMB plans to issue another amended version of 2 CFR Chapter II, Part 200 after this comment period is up (note: which is after the effective date of December 26, 2014). As of the date of this Bulletin, another version has not been released.**

OMB's Uniform Guidance proposes a number of significant changes designed to reduce administrative burden; strengthen oversight of federal funds; and reduce the risk of fraud, waste and abuse. However, parts of it differ ***significantly*** from OMB's proposed guidance described in AOS Bulletin 2013-006.

The Uniform Guidance supersedes, combines and streamlines the following eight circulars into one document:

- Administrative Requirements – A-102, A-110, A-89
- Cost Principles – A-87, A-21, A-122
- Audit Requirements – A-133 and part of A-50

It should be noted that these changes are applicable to all entities that receive ANY federal awards, even if the single audit threshold is not reached.

The Uniform Guidance in 2 CFR Chapter II, Part 200 titled *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* is structured, as follows:

Uniform Guidance Subparts & Appendices			
Subpart	**Section**	**Description**	**Notes**
A	200.0 - 200.99	Acronyms & Definitions	
B	200.100 - 200-113	General Provisions	
C	200.200 - 200.211	Pre-Federal Award Requirements and Contents of Federal Awards	Formerly A-102, A-110, & A-89
D	200.301 - 200.345	Post Federal Award Requirements	Formerly A-102, A-110, & and A-89
E	200.400 - 200.475	Cost Principles	Formerly A-87, A-21, & A-122

F	200.500 - 200.521	Audit Requirements	Formerly A-133, (& parts of A-50)
Appendices	**Notes**		
I – IX	• The appendices retain some provisions that vary for different types of recipients (i.e. indirect cost information, cost allocation plans, etc.). • As noted in Appendix IX, the existing principles located at 45 CFR 75 Appendix E remain in effect for hospitals until further notice.		

Most information was maintained with the same guidance as it was in the old OMB Circulars (i.e. most of the Administrative Requirements were rolled into Subparts C & D, etc.), however, this did not occur in all instances. For example, the requirements for pass-through entities and subrecipient versus contractor determinations previously included in A-133, are now included in the Subpart D *Administrative Requirements.*

Effective Dates

- Federal Agencies were required to adopt the guidance and implement the requirements to be effective by December 26, 2014. This occurred in the Joint Interim Final Rule Published on December 19, 2014.
- Non-Federal Entities:
  - Administrative Requirements & Cost Principles
    - The Uniform Guidance applies to ***new awards*** and to ***additional funding of existing awards*** (funding increments) made after December 26, 2014.
  - Audit Requirements
    - The Uniform Guidance will be effective for fiscal years beginning on or after December 26, 2014 (i.e., 1/1/15 – 12/31/15, 7/1/15 – 6/30/16, etc.). The Uniform Guidance does not permit early implementation of the audit requirements.
  - In other words, the Uniform Guidance Administrative Requirements & Cost Principles apply to new federal awards and additional funding of existing awards; however, the A-133 audit requirements will still be in effect, for fiscal years ending before December 26, 2015. **In addition, entities with multiple federal awards with different funding periods will likely have some awards that fall under the old Administrative Requirements and Cost Principles, and other federal awards that fall under the new Uniform Guidance. This situation could potentially occur for several years in the case of multi-year grants that were issued prior to December 26, 2014.**
- Clarifications made in COFAR's FAQs and/or the Joint Interim Final Rule:
  - Procurement Standards - The federal government is allowing a grace period of one full fiscal year after the effective date for non-Federal entities to comply with the new procurement standards.
  - Indirect Cost Rates - Existing negotiated indirect cost rates will remain in place until they are due to be re-negotiated.
  - Subawards - For Federal awards made prior to December 26, 2014, where some subawards will be made prior to December 26, 2014, and others will be made

after that date – the effective date of the Uniform Guidance is the same as the effective date of the federal award from which the subaward was made. **The requirements for a subaward, no matter when made, flow from the requirements of the original Federal award from the Federal awarding agency.**

- For example:
  - If the U.S. Department of Education awards a new $1 million grant to the Ohio Department of Education (ODE) on December 1, 2014; and
  - ODE subsequently awards $500,000 to local school districts on December 23, 2014 and awards the remaining $500,000 to local school districts on December 28, 2014; then
  - All of the local schools receiving the subawards will be following the old Administrative Requirements and Cost Principles because the Federal agency awarded the new grant prior to December 26, 2014. The local schools and their auditors will not know the date the Federal agency awarded the grant to ODE and therefore, which guidance the grant falls under unless ODE provides that information to them.

It is therefore imperative (and required) that pass-through agencies include information in federal award documents indicating which guidance the award falls under (Uniform Guidance, or old OMB Circulars). Taking this a step further, for audit, **non-federal entities** will be required to **identify the transactions** that fall under each grant, and the guidance applicable to that grant (Uniform Guidance, or old OMB Circulars).

- Incremental Funding – The new guidance will apply to new Federal awards made after December 26, 2014 **and, <u>if</u>** a Federal awarding agency considers its incremental funding actions to be opportunities to change terms and conditions on previously made awards, the new guidance will apply to that Federal awarding agency's incremental funding actions also.

<u>Overview of Significant Changes</u>

The Uniform Guidance is lengthy; however, the following highlight some of the key revisions:

<u>Definitions & General Provisions (Subparts A & B)</u>

- Contractors - Previously A-133 compared subrecipients versus vendors; the term contractor now replaces the term vendor. However, no matter what term the award uses, the substance of the relationship is more important than the form of the agreement in determining whether there is a subrecipient versus contractor relationship.
- PII – The Uniform Guidance now defines the terms Personally Identifiable Information (PII) and Protected Personally Identifiable Information.
- Program Income - A definition for Program Income is now included, as it was not previously defined in grant guidance.

- Conflict of Interest - Federal awarding agencies must establish conflict of interest policies for their federal awards; and non-Federal entities must disclose in writing, any potential conflict of interest to the Federal awarding agency (or pass-through entity) in accordance with the federal awarding agencies policy.
- Mandatory Disclosures – Non-Federal entities must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Administrative Requirements (Subparts C & D)

- Notice of Funding Opportunities – The Uniform Guidance contains a standard format to announce funding opportunities in Appendix I.
- Applicant Risk – Federal agencies are required to consider risk posed by each applicant, prior to making an award, such as financial stability, quality of management systems, and prior performance.
- Internal Controls – The Guidance requires non-Federal entities to have effective internal controls over federal awards and mentions two best practices: *U.S. Government Accountability Office (GAO) Green Book*, and *Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control Framework.* While the internal control section is more explicit in the Uniform Guidance, and the **overall focus is on a strong internal control system over federal awards**, there is no requirement that non-Federal entities utilize one of these documents. OMB identified these two documents to alert entities to best practices. COSO revised their Internal Control Framework in 2013; and in September 2014 GAO released their revised Green Book.
- Subrecipient Monitoring – While subrecipient monitoring requirements are substantially unchanged, the Uniform Guidance does make them more explicit. For example, all pass-through entities must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring. **In addition, section 200.331 contains a list of the specific information that must be included in all subawards**.
- Supplies – Computing devices less than $5,000 are now included as 'supplies'; but, when charging as a direct cost, they must be essential and allocable, but not solely dedicated, to the performance of the Federal award.
- Procurement – States continue to follow the same policies and procedures they use for procurements from their non-Federal funds. The new procurement standards for all other non-Federal entities adopt the majority of the language in Circular A-102, so **this section will affect entities formerly subject to Circular A-110[1] more significantly**. One new item added to this section is micro-purchases – for acquisitions of supplies or services where the aggregate amount does not exceed $3,000. Also, note the grace period for implementation of this guidance is one full fiscal year after the effective date for non-Federal entities, as previously discussed above.

[1] OMB Circular A-110 applies to Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.

Cost Principles (Subpart E)

- Time & Effort – **The Uniform Guidance made significant changes to time and effort requirements.** This area is now principles based, not rules based, and it requires judgment. The Uniform Guidance requires entities to comply with a stringent framework of internal control objectives and requirements for documenting personnel expenses; however, it gives entities the ability to implement the internal control systems and business processes that best fit their needs. It requires that charges to Federal awards for salaries and wages must be based on records that accurately reflect the actual work performed. Entities should note this section permits the Federal government to require personnel activity reports, including prescribed certifications, or equivalent documentation for non-Federal entities where the records do not meet the standards described in this section.
- Direct Costs – The Guidance clarifies that entities may treat salaries of administrative and clerical staff as direct costs under certain circumstances.
- Indirect Costs – **This is another area of significant change.** It requires federal agencies to accept a non-Federal entity's negotiated indirect cost rate; however, as noted above, existing negotiated indirect cost rates will remain in place until they are due to be re-negotiated. In addition, the Uniform Guidance allows any non-Federal entity that has a current federally negotiated indirect cost rate to apply for a one-time extension of the rates in that agreement for a period of up to four years. If an extension is granted, the non-Federal entity may not request a rate review until the extension period ends. At the end of the four year extension, the non-Federal entity must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request. The Uniform Guidance further provides for a de minimis indirect cost rate of 10% of modified total direct costs for entities that have never had a negotiated indirect cost rate; however, this de minimis rate is not available to entities who <u>receive</u> more than $35 million in <u>direct</u> Federal funding. COFAR clarified in their FAQs that entities will not be forced to establish an indirect cost rate if they feel it is not necessary; and it is not permissible for pass-through entities to force or entice a proposed subrecipient, without a negotiated rate, to accept less than the de minimis rate. The Uniform Guidance also states that equipment and other capital expenditures are unallowable as indirect costs.
- Prior Approval – The Uniform Guidance provides a list of circumstances under which entities need to seek prior approval from the Federal awarding agency.
- Family-Friendly Policies – Non-Federal entities are encouraged to consider updating their travel and other affected local policies and procedures, to now be family-friendly. For example, the section on travel costs now provides that temporary dependent care costs above and beyond regular dependent care that result directly from travel to conferences and meets specified standards are allowable, <u>if</u> local policies are consistent with such. In addition, the Guidance clarifies that any such changes to travel policies must be for <u>entity-wide</u> travel (not just travel related to federal awards).
- Compensation/Fringe Benefits – The Guidance clarifies that mass severance pay-outs require federal agency or Cognizant agency approval; and that excessive severance pay is unallowable.

Audit Requirements (Subpart F) ***– Note: This section includes relevant information for auditors and entities.***

- Single Audit Threshold - **The single audit threshold increased from $500,000 to $750,000.** However, as noted above, the Uniform Guidance is not permitting early implementation. Pass-through entities should consider whether their level of oversight is appropriate for entities which will no longer be receiving a single audit.
- Low-Risk Auditee Status – The Guidance added one new criterion that states if the auditor reported a going concern in one of the prior two audit periods, then the entity does not qualify as a low-risk auditee. Also, one of the criteria was modified. It now requires **in order to qualify as a low-risk auditee, the auditor's opinions on whether the financial statements were prepared in accordance with GAAP, or a basis of accounting *required* by state law, and the auditor's in-relation-to opinion on the Schedule of Expenditures of Federal Awards (SEFA) in the prior two audit periods, must be unmodified.**
    - Ohio Administrative Code 117-2-03 (B) states that all counties, cities and school districts, including educational service centers, and community schools shall file annual financial reports which are prepared using GAAP. **Meaning that auditors can only consider these entity types for low-risk auditee status for single audit purposes if they have audited GAAP financial statements in the prior two audit periods. Presenting financial statements on an OCBOA basis would also preclude these entities from being designated as low risk.**
    - Ohio Administrative Code 117-2-03 (C) states that public offices that use the Uniform Accounting Network (UAN) shall file their annual financial reports in accordance with the guidelines established by the UAN. Ohio Administrative Code 117-2-03 (D) states that all other local public offices who do not prepare the annual reports using GAAP shall file their annual financial reports on the forms provided by the AOS. **We interpret these sections to mean that since there is no requirement in Ohio law prohibiting these entities from presenting GAAP statements for audit, auditors can only consider these entity types for low-risk auditee status for single audit purposes if they have audited GAAP financial statements in the prior two audit periods. Presenting financial statements on a regulatory cash, OCBOA cash or OCBOA modified cash basis would also preclude these entity types from being designated as low risk.**
- Percentage of Coverage Rule – Currently, auditors are required to audit 50% of total Federal awards expended for not low-risk auditees; this is decreasing to 40%. In addition, auditors are currently required to audit 25% of total Federal awards expended for low-risk auditees; this is decreasing to 20%.
- Type A/B Program Threshold – For entities with Federal expenditures up to $25 million, the threshold to determine Type A/B programs is increasing from $300,000 to $750,000 (note this is now the same as the single audit threshold). For entities with Federal expenditures over $25 million there is a calculation to determine the Type A/B threshold.

- Type A Program Risk Analysis – The inherent risk of the program, prior significant deficiencies, and prior questioned costs of 5% or less of total program expenditures, no longer have an impact on the risk assessment of Type A programs.
- Type B Program Risk Analysis – Previously there were two options to risk assess Type B programs under A-133; there are no longer two options. Under the Uniform Guidance, auditors perform risk assessments on Type B programs until they identify high-risk Type B programs up to at least one-fourth of the number of low-risk Type A programs. In addition, risk assessment of Type B programs is not required for programs that do not exceed 25% of the Type A threshold.
- Loans & Loan Guarantees – Modified cluster guidance now states that for the purpose of excluding large loan programs for the revised Type A threshold calculation, a program is only considered to be a Federal "loan program" if the value of Federal awards expended for loans within the program comprises fifty percent or more of the total Federal awards expended for the program. In addition, loan and loan guarantees are now required to identify loan balances outstanding at the end of the audit period in the Schedule of Expenditures of Federal Awards (SEFA) footnotes; this is in addition to including the total federal awards expended for loan or loan guarantees on the SEFA.
- SEFA and footnotes – The SEFA footnotes are now required to include a statement regarding <u>whether or not</u> the non-Federal entity elected to use the 10% de minimis cost rate. Additionally the SEFA is now required to include the total amount <u>provided to</u> subrecipients from each Federal program; previously this was only required "to the extent practical." Also, the SEFA is required to provide the total for each cluster of programs.
- Questioned Cost Threshold – The questioned cost threshold increased from $10,000 to $25,000.
- Audit Findings – The Uniform Guidance now requires identification of whether an audit finding is a repeat from the immediately prior audit, and if so, the prior year audit finding number. The Uniform Guidance also requires that finding numbers must be in the format prescribed by the Data Collection Form (i.e. 2014-001) – this requirement went into effect on January 2, 2015 for all fiscal year end 2014 and later audit submissions. Additionally, the Guidance states that audit findings *should* indicate whether sampling was a statistically valid sample.
- Auditor Selection – For non-Federal entities, if an auditor prepares an auditee's indirect cost proposal or cost allocation plan (CAP), that same auditor may not be hired to perform its single audit if the auditee's indirect costs recovered during the prior year exceeded $1 million.
- Corrective Action Plan & Summary Schedule of Prior Audit Findings – These must include findings relating to the financial statements which are required to be reported in accordance with GAGAS.
- Protected Personally Identifiable Information – Auditees and auditors must ensure that their respective parts of the reporting package do not include Protected PII. The definition of Protected PII is available in Section 200.82. The Uniform Guidance includes a provision for PII that the law requires disclosure for. We believe any entity in Ohio which has a Finding for Recovery in its audit report falls under this provision,

because Ohio Revised Code Sections 117.28 and 9.24 requires disclosure of this information.

- Report Submission – Audit reports will be publicly available on the Federal Audit Clearinghouse (FAC) website. In addition, federal agencies, pass-through entities, and others interested in obtaining single audit reports, must obtain such by accessing the FAC website, rather than requesting it from the non-Federal entity. The Uniform Guidance further clarified that if the due date for a single audit falls on a Saturday, Sunday, or Federal legal holiday, the reporting package is due the next business day.

Other Guidance

- Use of "must" and "should" in the Uniform Guidance – Under auditing standards the term "should" normally means "must". However, COFAR noted in a FAQ that a *requirement* is designated by the use of the word "must"; and the word "should" is used to indicate a *best practice or a recommended approach* for non-Federal entities to be aware of, but not necessarily required to comply with. Several technical corrections were made related to the use of the words "must" and "should" in the Joint Interim Final Rule.
- Single Audit Report Format - Appendix X refers to the Data Collection Form requirements which are available on the FAC website. Beginning January 2, 2015, all fiscal year end 2014 and later audit submissions were required to be unlocked, unencrypted, and in a text-searchable pdf format. The FAC recently added a new pdf validator to 'test upload' audit reports prior to the actual upload to determine whether the file will pass the unlocked/unencrypted requirements.
- Compliance Supplement Modifications - A COFAR recommendation suggested additional public outreach before making substantial changes to the OMB Compliance Supplement; they are currently in the process of such. However, significant changes should be expected in the 2015 version.

What to Do Now

- Ensure an appropriate understanding of the effective dates.
- Review the details of 2 CFR Chapter II, Part 200 that are applicable to your entity / entity types you audit.
  - **To assist with this, AOS has recorded a webinar and made it available to the public at https://ohioauditor.gov/trainings/default.html.**
- Review COFAR's FAQs related to the Uniform Guidance.
- Review OMB's text comparisons of the old versus new guidance.
- Develop a plan to become compliant. Focus on areas of most significance first (time & effort, indirect costs, procurement, internal control, subrecipient monitoring, etc.).
- If the Low Risk Auditee Status changes will affect your entity, determine whether your entity will change to a GAAP reporting format.
- Begin a process to update local policies and regulations on federal grants and internal controls.

Links to Documents/Websites Mentioned Throughout This Bulletin

- *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* - http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
    - Note: The information at this link will be updated as changes are made to the Uniform Guidance.
- *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* - *http://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-28697.pdf*
    - Note: This link contains a listing of each federal agency's respective chapter of Title 2 of the CFR where the Uniform Guidance was adopted.
- COFAR FAQs, webinars, and a listing of federal agency exceptions approved to the Uniform Guidance - https://cfo.gov/cofar/
- OMB text comparisons of old versus new guidance - http://www.whitehouse.gov/omb/grants_docs
- GAO's Green Book on internal controls - http://www.gao.gov/greenbook/overview
- COSO's internal control framework - http://www.coso.org/guidance.htm
- OMB Compliance Supplement - http://www.whitehouse.gov/omb/financial_fin_single_audit/
- Federal Audit Clearinghouse - https://harvester.census.gov/facweb/

Entities and their auditors should carefully read the full text of the Uniform Guidance as there are too many changes and details to fully describe in this Bulletin.

For any questions regarding the information in this Bulletin, please contact the Center for Audit Excellence staff of the State Auditor's Office at (800) 282-0370 or e-mail FACCR@ohioauditor.gov .

Dave Yost
Ohio Auditor of State

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Bulletin 2015-006

Auditor of State Bulletin

DATE ISSUED: **September 22, 2015**

TO: **All Fiscal Officers and Independent Public Accountants (IPAs)**

FROM: **Dave Yost, Auditor of State**

SUBJECT: **Governmental Accounting Standards Board Statement No. 68 – Accounting and Financial Reporting for Pensions**

Background Information

The Governmental Accounting Standards Board (GASB) Statement No. 68, "Accounting and Financial Reporting for Pensions," includes guidance for reporting pension liabilities. GASB 68 addresses accounting for defined benefit and defined contribution pension plans.

The five major pension plans in Ohio include Ohio Public Employees Retirement System (OPERS), Ohio Police & Fire Pension Fund (OP&F), State Teachers Retirement System of Ohio (STRS), School Employees Retirement System of Ohio (SERS) and the Ohio Highway Patrol Retirement System (HPRS). HPRS is a single-employer retirement plan while the remaining plans are multiple-employer plans. Local government employers contribute to OPERS, OP&F, STRS and SERS. The major plans that are offered by these four pension systems are defined benefit, cost-sharing plans. The focus of this bulletin will be on defined benefit, cost-sharing plans. Guidance related to defined contribution plans will be discussed later in this bulletin.

The GASB issued an implementation guide to supplement the guidance found in GASB 68. The Implementation Guide is organized in a question and answer format. This bulletin references specific questions from the GASB 68 Implementation Guide (IG).

The requirements of this Statement apply to all Ohio State and local governments with a Generally Accepted Accounting Principles (GAAP) reporting requirement per OAC 117-02-03(B). Some other governments may be subject to GAAP, such as through a debt covenant. GASB 68 is effective for financial statements for periods beginning after June 15, 2014. Meaning, school districts and other governments with a June 30 fiscal year end must apply GASB 68 to their June 30, 2015, GAAP financial statements; governments with a December 31 fiscal year end must apply it to their 2015 GAAP financial statements.

Comparison to GASB 27

GASB 68 is an amendment to GASB Statement No. 27, "Accounting for Pensions by State and Local Governmental Employers." GASB 27 focused on a funding approach and recognized a liability on both the accrual basis and modified accrual basis for any unpaid contractually required contributions.

GASB 68 focuses on an earnings approach for recognizing a liability on an accrual basis as pensions are earned by employees. GASB 68 also recognizes a liability for payables to a defined benefit pension plan on both the accrual basis and modified accrual basis.

Under GASB 68, an intergovernmental payable will continue to be reported for any unpaid contractually required contributions at year end on both the accrual basis and modified accrual basis of accounting. On the "full-accrual" basis, governments will also report a net pension liability. A net pension liability will be recognized on the modified accrual basis of accounting to the extent payments have matured – that is, benefit payments are due and payable and the pension plan's fiduciary net position is not sufficient for payment of these benefits. Currently, no Ohio pension plans have net pension liabilities requiring recognition on the modified accrual basis.

Calculating the Net Pension Liability (NPL)

The NPL reported on the statement of net position represents a liability to employees for pensions. Pensions are a component of exchange transactions-–between an employer and its employees—of salaries and benefits for employee services. Pensions are provided to an employee—on a deferred-payment basis—as part of the total compensation package offered by an employer for employee services each financial period. The obligation to sacrifice resources for pensions is a present obligation because it was created as a result of employment exchanges that already have occurred.

The NPL represents the government's *proportionate share* of the actuarial present value of projected benefit payments attributable to past periods of service, net of the pension plan's fiduciary net position. The NPL calculation is dependent on critical long-term variables, including estimated average life expectancies, earnings on investments, cost of living adjustments and others. While these estimates use the best information available, unknowable future events require adjusting this estimate annually.

Selecting a measurement date The NPL is to be measured as of a date (*measurement date*) no earlier than the end of the employer's *prior* fiscal year, consistently applied from period to period. This determination is made by the employer.

Typically, a local government's fiscal year end is the same as the fiscal year end of the pension system. In this case, the local government can report their NPL as of their current year end or as of the prior fiscal year end. (IG 123, codified as 5.162.1) Once the measurement date is determined, it is to be consistently applied.

If a government participates in two separate pension systems, the employer is not required to use the same measurement date for each net pension liability. (IG 124 / 5.162.2)

Example: Assume a city contributes to OPERS. The city's and OPERS' fiscal years end December 31. For its 2015 financial statements, the city can elect to use OPERS' NPL measured as of December 31, 2015 or 2014.

Because OPERS' 2015 audited financial statements and schedules of pension amounts might not be available in time to meet the city's 150-day filing requirement (ORC 117.38), the city may use the NPL from OPERS' 2014 financial statements and schedules of pension amounts.

Proportionate share The proportionate share is a measure of the proportionate relationship of the employer to all employers within the pension plan. This percentage is typically based on employer contributions and will be calculated by the pension system.

Collective net pension liability The collective net pension liability is the NPL for benefits provided through a cost-sharing plan. This amount is measured as the portion of the actuarial present value of projected benefit payments that is attributed to past periods of employee service, net of the pension plan's fiduciary net positon. The net pension liability represents the liability of employers to employees for benefits provided through a defined benefit pension plan. This amount will be provided by the pension systems.

GASB 68 has specific requirements the pension systems follow related to determining the pension liability, including the actuarial valuation. These requirements address the timing and frequency of the actuarial valuation, the selection of assumptions, the projection of benefit payments, the discount rate, and the attribution of the actuarial present value of projected benefit payments to periods. Certain data maintained by the pension system is used in this calculation process. This data includes, birth date, hire date, gender and marital status and is collectively referred to as census data. This census data is subject to the pension plan's audit.

A local government's NPL is calculated by multiplying the pension plan's collective net pension liability by the local government's proportionate share percentage. If the local government reports proprietary or fiduciary funds, consideration should be given to NCGA Statement 1, paragraph 42, which requires that long-term liabilities that are "directly related to and expected to be paid from" those funds be reported in the statement of net position or statement of fiduciary net position, respectively. (IG 122 / 5.161.2)

To allocate the NPL between governmental activities and proprietary or fiduciary funds, a method similar to the allocation made by the pension system (based on contributions) can be used or any other reasonable method.

Pension expense and deferred inflows/outflows Pension expense and/or deferred inflows/outflows are affected by changes in the collective net pension liability, items related to the calculation of the proportionate share and contributions made subsequent to the measurement date.

Changes in the collective net pension liability should be included in collective pension expense, except for the following which are components of deferred inflows/outflows:

1. Difference between expected and actual experience in the measurement of the total pension liability. *
2. Changes of assumptions *
3. Net difference between projected and actual earning on pension plan investments. **

*Amortized beginning in the current period over the average of the expected remaining service life of all employees that are provided with pensions determined as of the beginning of the measurement period. The expected remaining service life will be provided by the pension system.

**Amortized over a five year period

Information to calculate items 1 through 3 will be provided by the pension system.

Contributions to the pension plan from employers should not be included in collective pension expense.

Changes related to the calculation of the proportionate share include:

1. Change in the employer's proportion percentage*
2. Difference between the employer's contribution and the employer's proportional share of contributions. *

*Amortized beginning in the current period over the average of the expected remaining service life of all employees that are provided with pensions determined as of the beginning of the measurement period. The expected remaining service life will be provided by the pension system.

Items 1 and 2 can be reported net.

Contributions to a plan from the employer subsequent to the NPL measurement date and before the end of the employer's reporting period should be reported as a deferred outflow. For example, if an employer selects a measurement date one year *prior* to its current year end, it should report all contributions during the *current* year as deferred outflows. The contributions should be calculated on a GAAP basis, not a cash basis. (IG 147 / 5.169.1)

Other than employer contributions subsequent to the measurement date, there is no restatement required for deferred inflows/outflows (GASB 71). However, the restatement note should indicate if it includes deferred inflows of resources or deferred outflows of resources. Also, the reason for not restating prior periods should be explained.

Special Funding Situations

Special funding situations are circumstances in which a nonemployer entity is legally responsible for making contributions directly to a pension plan that is used to provide pensions to the employees of another entity or entities.

This should not be a common situation for Ohio local governments. Payments to STRS and SERS through a deduction from school foundation do not qualify as a special funding situation. Additional information related to special funding situations can be found in GASB 68 paragraphs 92 through 96.

Financial Statements

The employer's proportionate share of the collective net pension liability is not required to be displayed separately on the face of the financial statements; i.e. it is acceptable to include it with *liabilities due in more than one year*. However, for some governments, it will be a significant balance, and governments may prefer to display it separately on the face of the financial statements. Liabilities for net pension liabilities associated with different plans may be aggregated for display, and assets for net pension assets associated with different plans may be aggregated for display. However, aggregated pension assets and aggregated pension liabilities should be separately displayed. (IG 136 / 5.164.2)

Note Disclosure

The note disclosure requirements for cost sharing employers are identified in GASB 68 paragraphs 74 through 80. The total of the employer's pension liabilities, pension assets, deferred outflows of resources and deferred inflows of resources related to pensions, and pension expense/expenditure for the period associated with net pension liabilities should be disclosed if the total amounts are not otherwise identifiable from information presented in the financial statements. The notes should also include a description of the pension plan (GASB 68 ¶76), information about the employer's proportionate share of

the collective net pension liability (GASB 68 ¶77 - ¶79) as well as other information (GASB 68 ¶80). These disclosure requirements are quite lengthy; refer to the referenced GASB 68 paragraphs for the specific requirements.

In addition, the amount of payables to a defined benefit pension plan outstanding at the end of the reporting period, significant terms related to the payables, and a description of what gave rise to the payable should be included in the notes to the financial statements.

Note disclosure shells are available on the Auditor of State's website at http://www.ohioauditor.gov/references/gasb68.html. We believe these examples meet the requirements of Statement 68. However, each governmental employer is responsible for comparing their disclosure with the aforementioned paragraphs in 68 to determine if their disclosure is complete and accurate.

Required Supplementary Information (RSI)

All cost-sharing employers need to present the following required supplementary information separately for each cost-sharing pension plan through which pensions are provided. (GASB 68 ¶ 81)

A 10 year schedule with amounts determined as of the measurement date of the collective net pension liability:

- The employer's proportion (percentage) of the collective net pension liability
- The employer's proportionate share (amount) of the collective net pension liability
- The employer's covered employee payroll
- The employer's proportionate share (amount) of the collective net pension liability as a percentage of the employer's covered-employee payroll
- The pension plan's fiduciary net position as a percentage of the total pension liability

If the contribution requirements of the employer are statutorily or contractually established, a 10 year schedule presenting the following with amounts determined as of the employer's most recent fiscal year-end:

- The statutorily or contractually required employer contribution
- The amount of contributions recognized by the pension plan in relation to the statutorily or contractually required employer contribution
- The difference between the statutorily or contractually required employer contribution and the amount of contributions recognized by the pension plan in relation to the statutorily or contractually required employer contribution
- The employer's covered-employee payroll
- The amount of contributions recognized by the pension plan in relation to the statutorily or contractually required employer contribution as a percentage of the employer's covered-employee payroll

Information contained in RSI schedules are different if the employer has a special funding situation.

Information about factors that significantly affect trends in the amounts presented in the RSI schedules should be presented as notes to the schedules.

Previously, covered payroll was defined as pensionable salary; however, under GASB 68, it is defined as the total payroll of covered employees. (IG 210 / 5.192.2)

The RSI schedules should not include information that is not measured in accordance with GASB 68 requirements.

The information for all periods for the 10 year schedules that are required to be presented as RSI may not be available initially. In these cases, during the transition period, that information should be presented for as many years as are available.

Transition

Governments should restate beginning net position. For example, a school district's June 30, 2015, statement of activities should reduce its previously-reported June 30, 2014, net position by the NPL applicable to June 30, 2014. (This would be the NPL computed as of June 30, 2013, if the school district selected a measurement date one year prior to its fiscal year end.)

Beginning net position should also be restated for any contributions made subsequent to the measurement date. As mentioned above, for the remaining deferred inflows/outflows, GASB 68 encourages, but does not require governments to allocate its beginning NPL between net position and deferred inflows/outflows.

Also refer to disclosure requirements related to the restatement of deferred inflows/outflows referenced in the discussion of the collective net pension liability above.

Defined Contribution Plans

On an accrual basis of accounting, pension expense related to defined contribution plans should equal the amount of contributions attributable to employees' services in the period and changes in the pension liability equal to the difference between the amount recognized as pension expense and amounts paid by the employer to the pension plan.

On a modified accrual basis of accounting, pension expenditures should be equal to amounts paid by the employer to the pension plan and the change between the beginning and ending balances of amounts normally expected to be liquidated with expendable available financial resources. This amount represents the extent that contributions are due and payable pursuant to legal requirements, including contractual arrangements.

GASB 68 paragraph 126 identifies the disclosure requirements related to defined contribution plans.

Applicability to Non-GAAP Entities

Governments that prepare Other Comprehensive Basis of Accounting (OCBOA) or Regulatory basis financial statements will not present their NPL on their financial statements and need not disclose their NPL in the notes. However, governments *statutorily* required to prepare GAAP statements, but that choose to prepare OCBOA or regulatory statements instead, will need to disclose pension information in their notes.

A sample OCBOA pension note for governments required to prepare GAAP statements but choose to prepare OCBOA statements is available on our website at:

http://www.ohioauditor.gov/references/gasb68.html.

Information Available from the Pension Systems

In February 2014, the American Institute of Certified Public Accountants (AICPA) issued two white papers related to the new pension standards. One white paper, "Governmental Employer Participation in Cost-Sharing Multiple-Employer Plans: Issues Related to Information for Employer Reporting" discusses two schedules that will be prepared by the pension systems and audited by the plan's auditor. These schedules will be available through the pension systems and will contain most of the information necessary to implement GASB 68.

Audit Considerations - Employer Responsibilities

While the pension systems will provide much of the information needed to report the NPL, deferred inflows, deferred outflows, and pension expense in their audited Schedule of Employer Allocations and Schedule of Pension Amounts, employers are likely to have to calculate a few of the deferred amounts and related amortizations as described in the *Pension expense and deferred inflows/outflows* section of this bulletin. Employers have various responsibilities related to the implementation of GASB 68. Among these responsibilities are:

- Determine an appropriate measurement date as described above.
- Report complete and accurate census data to the pension systems.
- Periodically reconcile contributions sent to the plan with payroll data.
- Evaluate the appropriateness of the information used to record financial statement amounts.
- Evaluate whether the pension system auditor's report on the *Schedule of Employer Allocations* and *Schedule of Pension Amounts* is adequate and appropriate for employer purposes.
- Verify the employer contribution amounts reflected in the S*chedule of Employer Allocations* agree with the employer's contribution records.
- Recalculate the allocation percentage.
- Ensure all of the employer codes associated with the government are included in the calculations.
- Recalculate the allocation of pension amounts based on the allocation percentage of the employer.
- Maintain all amortization schedules for deferred inflows/outflows and pension expense amounts.

Additionally, employers will need to provide management's representations to their auditors regarding the completeness and accuracy of the data provided to the pension systems as well as the appropriateness of the pension amounts reported in the financial statements. These representations should be included in the management's representation letter the auditors will obtain at the conclusion of the audit.

Audit Considerations - Employer Auditor Responsibilities

Employer auditors are responsible for opining on the financial statements of the employers. As part of the audit process, the employer auditors must obtain sufficient, appropriate audit evidence to reduce the risk of material misstatement to an acceptably low level. Since much of the information needed to calculate the proportionate share, NPL, deferred inflows, deferred outflows and pension expense is only available from the pension system, the pension systems will be preparing Schedules of Employer Allocations and Pension Amounts (the schedules) to provide the information to the employers. The pension system auditors will opine on these schedules in accordance with AU-C section 805.

Actuaries develop the estimates of the NPL, deferred inflows, deferred outflows and pension expense based on financial data and elements of non-financial data known as census data as discussed in the *Calculating the Net Pension Liability (NPL)* section of this bulletin. Since the actuarial valuations are based, in part, on this data and the schedules are prepared based on the actuarial valuations, the pension system auditors must gain assurances that the census data provided to the actuary is accurate and

complete before they can opine on the schedules. To gain these assurances, the pension system auditors select samples of employers for census data testing, and identify the elements of census data for which assurances are required. For 2015, the AOS performed examination engagements for each of the employers selected by the pension system auditors and reported the results to the pension system auditors. The pension system auditors used these examination reports to provide assurances that the census data reported to the pension system was complete and accurate. For future years, pension system auditors will continue to select a sample of employers for census data testing. The AOS and/or IPAs will have to perform examinations on the census data elements and report the results to the pension system auditors.

Employer auditors will generally use the pension system auditor's reports on the pension system's financial statements and the audited Schedule of Employer Allocations and Schedule of Pension Amounts as audit evidence that the pension amounts allocated to the employer and included in the employer's financial statements are not materially misstated. Employer auditors have various responsibilities related to using this audited information from the pension systems including:

- Evaluate controls over reporting contributions to the plan.
- Test the contributions to the pension systems.
- Ensure the employer contributions amounts used to calculate the allocation percentage agrees with the employer's records.
- Recalculate the amounts provided in the audited schedules.
- Test all amortization schedules.
- Test the information reported in the notes to the financial statements to ensure all of the required disclosures are included.
- Review the required supplementary information to ensure it includes the required elements.
- Auditors are also responsible for evaluating whether the pension system auditor's report on the Schedules of Employer Allocations and Pension Amounts (the schedules) provide sufficient, appropriate audit evidence.

For AOS Audits: The Center for Audit Excellence (CFAE) will document and evaluate centrally:

- The professional qualifications of the actuary used by the pension systems;
- Whether the actuarial valuation date is appropriate;
- Whether the methods and assumptions used by the actuary are in accordance with GASB 68;
- The professional competence and independence of the pension system auditors; and,
- Whether the pension system auditor's report on the schedules is adequate to provide the sufficient and appropriate audit evidence.

The CFAE will provide a memo to AOS auditors documenting whether they can rely on the audited employer schedules.

For IPA Audits: IPAs will be responsible for their own evaluation of the pension system auditor's report on the schedules.

Resources Available on the Auditor of State's Website

The Auditor of State's Office has resources related to GASB 68's implementation available on our website at http://www.ohioauditor.gov/references/gasb68.html. The resources consist of shells for note disclosure and Management's Discussion & Analysis; samples which include financial statements and RSI; journal entries; and a FAQ document. These resources will be updated as further information becomes available.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact Local Government Services at the Auditor of State's Office at (800) 345-2519.

Dave Yost
Auditor of State

Dave Yost • Auditor of State

Bulletin 2015-007

Auditor of State Bulletin

Date Issued: **December 21, 2015** UPDATED February, 2017

TO: **All Auditor of State (AOS) Financial Audit and Local Government Services Staff**
All Public Offices and Other Entities Required to File Annual Financial Reports with the AOS
All Independent Public Accountants (IPAs)

FROM: **Dave Yost, Ohio Auditor of State**

SUBJECT: **Required Annual Financial Report Filing by Public Offices and Other Entities Required to File**

Overview

The purpose of this Bulletin is to provide comprehensive guidance related to required annual financial report filings by public offices and other entities required to file and includes changes to Auditor of State (AOS) policy regarding:

- The new mandatory method for filing via the AOS' Hinkle Annual Financial Data Reporting System (Hinkle System – formerly known as AFDRS),
- The change to require non-generally accepted accounting principles (non-GAAP) basis financial statements to include notes to the financial statements as part of the annual financial report filing, and
- The change in AOS policy to require the financial statements filed via the Hinkle System to be audited beginning with periods ending in 2016.

The Bulletin also reiterates and/or updates previous guidance related to:

- The statutory annual financial report filing requirements, including the public offices and other entities required to file, and the amendment to Ohio Administrative Code (OAC) §117-2-03(B) requiring government insurance pools to file GAAP financial statements,
- The required components of financial statements for different bases of accounting,
- The filing due date extension requests,
- The impact of non-compliant filings, including possible "unauditable" declarations when entities fail to submit in accordance with the requirements.

This Bulletin supersedes guidance from previously issued Bulletins 2008-001, 2006-02, 2001-012 and 97-015.

Hinkle Annual Financial Data Reporting System (Hinkle System)

Beginning with 2015 financial report filings, all entities required to file with the AOS **must** file electronically via the Hinkle Annual Financial Data Reporting System (Hinkle System) unless a waiver (described below) has been approved by the AOS for the applicable filing year.

The Hinkle System is an internet-based application that allows certain financial statement, debt and demographic data to be entered and/or uploaded and transmitted to the AOS to satisfy the filing requirements of the Ohio Revised Code (ORC) and the OAC. The Hinkle System increases uniformity in financial reporting, generates the statutory reports to the governor and general assembly required pursuant to ORC §117.38, and provides users of this information improved access and functionality.

The Hinkle System was introduced for the 2013 financial report filing for cities and counties, and the 2014 financial report filing for school districts, including joint vocational school districts, educational service centers, community schools, townships, libraries and villages.

Statutory Filing Requirements

Ohio law (ORC §117.38) requires that local public offices file their annual financial reports with the AOS. Further, OAC §117-2-03(B) requires all counties, cities, school districts, including educational service centers and community schools, and government insurance pools prepare their financial reports pursuant to GAAP. OAC §117-2-03(B) was amended in 2015 to require government insurance pools to prepare their annual financial reports pursuant to GAAP. This new GAAP filing requirement is effective for annual financial report filings for periods ending December 31, 2016 and after. Community improvement corporations (CIC), including economic development corporations and county land reutilization corporations, development corporations, and state universities and colleges are also required to file with the AOS and prepare financial reports pursuant to GAAP per ORC §1724.05, ORC §1726.11, ORC §3345.72 and OAC §126:3-1-01(A)(2)(a), respectively.

Entities subject to ORC §117.38 filing on a GAAP basis have 150 days following the end of their fiscal year to submit their financial statements to the AOS. CICs and development corporations have 120 days following the end of their fiscal year to submit their financial statements to the AOS. Universities and colleges must file their financial statements no later than October thirty-first (31st) of each year. All other entities, and GAAP-mandated entities under OAC §117-2-03(B) choosing to not file on a GAAP basis, have 60 days following fiscal year-end to complete their submission in accordance with ORC §117.38. When due dates fall on a weekend, on a legal holiday or when the AOS is closed to the public, the submission will be due the next business day. An entity failing to comply with the mandated basis of accounting, if applicable, and/or the filing requirements may be subject to non-compliance citations and penalties established by the ORC.

Public Offices and Other Entities Required to File

Each public office, other than a state agency, shall file a financial report for each fiscal year. According to ORC §117.01(D), “public office” means any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of the State of Ohio for the exercise of any function of government. "Public office" does not include the

nonprofit corporation formed under §187.01 of the ORC. Other entities, although not public offices, are required to file with the AOS under specific ORC sections.

Public offices and other entities currently required to file with the AOS include the following:

Entity Type	Establishing Code Section
Agricultural Societies (County and Independent)	ORC 1711
Airport Authorities	ORC 308
Alcohol, Drug Addiction and Mental Health Boards (Multiple County)	ORC 340.01
Cemeteries (Joint Township, Union and Union Cemetery Districts)	ORC 517, 759
Cities	ORC 707
Colleges and Universities	ORC 3345.72 and OAC §126:3-1-01(A)(2)(a)
Community Based, Multi-County and Juvenile Correctional Facilities	ORC 2301.51, 307.93, 2151
Community Improvement Corporations (including Economic Development Corporations and County Land Reutilization Corporations) and Development Corporations	ORC 1724, 1726
Community Schools	ORC 3314
Conservancy Districts	ORC 6101
Consolidated Departments of Job and Family Services	ORC 329.40
Convention Facilities Authorities	ORC 351
Counties	ORC 301
County School Financing Districts	ORC 3311.50
Emergency Management Agencies Multi-County Local Emergency Planning Committees (LEPC)	ORC 5502.~~26~~ .27 ORC 3750.03(F)
Entities created as Regional Councils of Governments	ORC 167
Family and Children First Councils	ORC 121.37
Fire, EMS and Ambulance Districts	ORC 307, 505
Government Insurance Pools	ORC 9.833, 2744.08 and 3345.203 (eff 3/15/17)
Health Districts	ORC 3709
Joint Children's Homes	ORC 5153.36

Entity Type	Establishing Code Section
Joint Economic Development Districts (JEDDs) Joint Economic Development Zones (JEDZs)	ORC 715
Joint Police Districts	ORC 505.482
Joint Public Defender Commissions	ORC 120.23
Lake Facilities Authority	ORC 353.02
Libraries	ORC 3375
Memorial Buildings (Board of Trustees)	ORC 345
Metropolitan Housing Authorities	ORC 3735
Multi-County Board of Developmental Disabilities	ORC 5126.02
Multi-County Local Healthier Buckeye Councils	ORC 355.02
New Community Organizations	ORC 349
Park Districts	ORC 511.18/1545
Port/Finance Authorities	ORC 4582
Public Hospitals	ORC 140.01, 339, 513, 749
Recreation Districts	ORC 755
Regional Arts and Cultural Districts	ORC 3381
Regional Library Systems	ORC 3375.90
Regional Planning Commissions	ORC 713
Regional Student Education Districts	ORC 3313
Regional Transportation Improvement Project	ORC 5595
Regional Water and Sewer Districts	ORC 6119
Retirement Systems	ORC 145, 742, 3307, 3309 and 5505
Sanitary Districts	ORC 6115

Entity Type	Establishing Code Section
School Districts (Local, City, Exempted Village, Vocational & Educational Service Centers)	ORC 3311
Science, Technology, Engineering and Mathematics (STEM) Schools	ORC 3326
Soil and Water Conservation Districts	ORC 1515 (transfer to ORC 940 effective 1/1/16)
Solid Waste Management Districts Joint and Regional	ORC 343
Special Improvement Districts	ORC 1710
Townships	ORC 503

Entity Type	Establishing Code Section
Transit Authorities/Commissions (Regional and Single County)	ORC 306
Transportation Improvement Districts	ORC 5540
University Branch Districts	ORC 3355
Villages	ORC 707
Watershed Districts	ORC 6105
Workforce Investment Area Agencies (Single and Multiple County) and Workforce Innovation and Opportunity Act Agencies(WIOA)	ORC 6301

- Fiscal officers representing more than one public office or other entity required to file are responsible for filing separate reports for each office.
- Any entity with a filing requirement must file a separate financial report. Inclusion in the financial statements of another reporting entity does **not** satisfy the filing requirement.

Required Components of Financial Statements

The required components of the financial statements will vary by entity type and basis of accounting. The highest level of reporting is the GAAP basis, and, as indicated earlier, is the mandated basis of accounting for several entity types. Many local governments maintain their internal accounting records and prepare their annual financial statements using a Special Purpose Framework *other comprehensive basis of accounting* (OCBOA) as defined in U.S. Auditing Standards AU-C 800. The three common OCBOA bases of accounting for governments in Ohio are: 1) OCBOA Cash basis; 2) OCBOA Modified Cash basis; and 3) Regulatory Cash basis. OCBOA Cash basis and OCBOA Modified Cash basis financial statements are presented using the same *structure* as GAAP financial statements; and, therefore, are also referred to as "GAAP look-alike," since GASB 34 established the current GAAP presentation structure. The third OCBOA basis, Regulatory Cash basis, is a cash basis of accounting used to comply with financial reporting provisions of a governmental regulatory agency, in this case the AOS. AOS' authority for establishing the Regulatory Cash basis is in accordance with the financial reporting provisions ORC §117.38 and OAC §117-2-03(D), and is commonly referred to as the "AOS basis."

The following outline includes the minimum required components of financial statement reports:

- **Governmental Entities (including governmental nonprofit entities) filing GAAP, OCBOA Cash or OCBOA Modified Cash basis**:
  - Management's Discussion & Analysis (required for GAAP; optional for OCBOA Cash or OCBOA Modified Cash)
  - Basic Financial Statements
    - Government-Wide Financial Statements
    - Fund Financial Statements
    - Notes to the Basic Financial Statements
  - Any other Required Supplementary Information (RSI) (GAAP only)
- **Nongovernmental Nonprofit Entities filing GAAP, OCBOA Cash or OCBOA Modified Cash basis:**
  - Basic Financial Statements
    - Statement of Financial Position
    - Statement of Activities (also known as Statement of Changes in Net Assets)
    - Statement of Functional Expenses (required for voluntary health and welfare organizations; optional for all other nonprofit organizations)
    - Statement of Cash Flows (GAAP only)
    - Notes to the Financial Statements
  - Any other RSI (GAAP only)
- **Regulatory Cash Basis Entities (a cash basis commonly referred to as "AOS basis"):**
  - Basic Financial Statements
    - Statement(s) (or Combined Statement(s)) of Receipts, Disbursements and Changes in Fund Balances – Governmental, Proprietary and Fiduciary, as applicable
    - Notes to the Basic Financial Statements

Notes to the Financial Statements - In the AOS' effort to provide assistance to our clients, we will continue to be available to assist entities in the preparation of notes to the financial statements. *GASB Codification 2300* explains the notes to the financial statements are intended to communicate information that is necessary for a fair presentation of the financial statements that is not readily apparent from, or cannot be included in, the financial statements themselves. The notes to the financial statements are an integral part of the financial statements, intended to be read with the financial statements, and are the entity's responsibility to prepare.

In previous AOS bulletins, entities preparing financial statements on a non-GAAP basis were permitted to exclude notes to the financial statements as part of the annual financial report filing and engage the AOS to assist with preparation of the notes during the audit. However, this has caused confusion, and it is important to note the preparation of the notes is the responsibility of the entity and should be completed in conjunction with preparing the financial statements. Therefore, the notes to the financial statements, and all other components listed above, are required to be included in the financial statements filed with the AOS via the Hinkle System as described below.

The AOS provides shells of financial statements and note disclosures for entities permitted to report on an OCBOA basis on our website at:

https://ohioauditor.gov/references/shells.html.

Documentation/Information Required for Hinkle System/Required Annual Financial Report Submission

The data required to be submitted as part of the annual financial report submission differs depending on the type of entity:

All entities - required to prepare a file of the entity's **final, unaudited** financial statements as described in the *Required Components of Financial Statements* section above. In order to upload the file into the Hinkle System, all components of the financial statements must be in one Adobe Acrobat PDF file of less than 30MB.

In addition to the PDF file of the full financial statement package, the following entity types are also required to key certain financial, debt and demographic data into the Hinkle System:

- Cities
- Counties
- School Districts, including Joint Vocational School Districts
- Educational Service Centers
- Community Schools
- Townships
- Libraries
- Villages

The specific data to be entered by each entity type is described in the Frequently Asked Questions (FAQs) and is reflected in the Quick Guide for each entity type available on the AOS website at:

http://www.ohioauditor.gov/financialreporting/default.html.

Accessing Hinkle System/ Submission of Annual Financial Report

With the exception of Uniform Accounting Network (UAN) clients (described below), the Hinkle System is only accessible via an **entity-specific** link provided by email to each entity's fiscal officer/designated contact after the end of the entity's annual fiscal year. It is; therefore, important for each entity to ensure any change in fiscal officer contact information, including an email address, is communicated to the AOS. ~~If your entity has registered for eServices, please login at: https://eServices.ohioauditor.gov and request the change. Otherwise, an entity should notify the AOS of the change via the email address established for the Hinkle System correspondence (HinkleSystem@ohioauditor.gov).~~ Guidance for notifying the AOS is available at: AOS Notifications.

- ***UAN Clients*** – for most UAN clients, the entity's required filing in the Hinkle System will be completed as part of the year-end UAN reporting. For UAN clients reporting on GAAP or another accounting basis which cannot be prepared by UAN, instructions will be provided by UAN regarding how to file via the Hinkle System.

- ***Electronic Filing Waiver for Small Governments*** – a waiver from required electronic filing in the Hinkle System may be requested for limited circumstances. If a non-UAN, small government entity is unable to file electronically, an Electronic Filing Waiver Request for Small Governments form, available on our website or by contacting the AOS, should be

completed and submitted for consideration. The entity will receive a response letter from the AOS indicating whether or not the waiver has been approved generally within ten (10) working days of the AOS receiving the request. Submission of a waiver request does not extend the due date for filing the entity's financial report. If approved, a waiver is only granted for one financial reporting year. A new request must be submitted for each annual financial reporting period. If the waiver is approved, the entity must submit: 1) a copy of the waiver approval with, if required, the requested demographic information completed; and 2) the final, unaudited financial statements, as described in the *Required Components of Financial Statements* section above, to the AOS, in order for the AOS to complete the Hinkle System filing on the entity's behalf.

Note: Submission of an entity's annual financial report by any method other than as described above will not satisfy the requirements of OAC §117-2-03(A)(1).

Publication - ORC §117.38 requires at the time the annual financial report is filed with the AOS, the chief financial officer shall publish notice in a newspaper of general circulation in the political subdivision or taxing district that states the financial report has been completed by the public office and is available for inspection at the office of the chief financial officer. Therefore, the ORC does not provide for filing "draft" financial statements with the AOS. Each entity has the ability to save and modify data in the Hinkle System up to the point of submission; however, submission to the AOS should not occur until the **final, unaudited** financial statements are prepared and ready for inspection. Once submitted via the Hinkle System, the data cannot be modified without contacting the AOS.

Filing Extensions

Normally, entities should ensure sufficient time has been planned and any necessary assistance has been engaged to prepare their annual financial statements in order to meet the statutory filing due dates; however, the AOS recognizes that occasionally circumstances may arise that justify granting an extension of the annual financial report filing deadline as permitted by ORC §117.38. Generally, the AOS will consider granting an extension to a public office, or other entity required to file, under extraordinary circumstances as defined below:

- The public office or other entity required to file is located in an area where a major flood or natural disaster has recently occurred;
- The records were destroyed through fire or casualty;
- The records are not updated due to the recent death or disability of the person responsible for preparing the annual financial report;
- A newly elected or appointed public official requests an extension due to poor maintenance of financial records by the predecessor official; or
- Other extenuating circumstances as determined by the AOS.

The **initial** year an entity is required to file via the Hinkle System is also an acceptable reason for requesting an extension. However, since the Hinkle System will be fully implemented for all entities with the 2015 annual financial reporting filings, extension requests for this reason will not be granted for reporting years 2016 and beyond.

Extension Requests must:

- State the reason(s) for the request;
- Indicate the requested filing extension date (up to a maximum of two (2) months beyond the statutory due date);
- Be signed by the chief fiscal officer and a representative of the governing board of the public office or other entity required to file; and
- Be in a PDF format and submitted to the AOS via the entity specific Hinkle System link[1] **no later than** the statutory due date for filing the entity's annual financial report. Extension requests cannot be submitted after the statutory/extended due date or by any other method.

The entity will receive a response email generally within ten (10) working days of the AOS receiving the request indicating whether the filing extension request has been granted. Additionally, once an entity selects the basis of accounting for reporting in the Hinkle System, the filing due date will appear in the upper right corner of each of the Hinkle System screens. Any extension granted will be reflected next to the due date with a Pending, Approved or Denied designation.

Non-Compliant Filing/Failure to File

ORC §117.38 imposes a penalty of $25 per day ($750 maximum) for entities that file late or fail to file. Failure to file includes entities which fail to file under a mandated basis of accounting as discussed in the *Statutory Filing Requirement* section of this bulletin. The AOS may waive all or any part of the penalty assessed under this section once the entity has filed the report via the Hinkle System. To be considered a ***complete*** annual financial report filing and avoid any penalties and/or non-compliance citations, the financial statements submitted via the Hinkle System **must include all components, including the notes to the financial statements,** as summarized in the *Required Components of Financial Statements* section of this bulletin.

During an entity's financial audit, procedures outlined in the *Ohio Compliance Supplement* will be performed to determine whether the entity's annual financial report filing(s) for the period under audit was complete, timely, and prepared utilizing the mandatory basis of accounting, if applicable. Auditors will inspect the Hinkle System filing to determine whether amounts reported agree with the entity's underlying accounting records and include all the required components. Material non-compliance will be cited in the *Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With Government Auditing Standards* when an entity mandated to prepare its financial statements on a GAAP basis reports on a non-GAAP basis and/or may be cited if the financial statements filed were significantly incomplete/misstated. Entities failing to file by the statutory due date, including any granted extensions, may be cited for the late filing in the management letter.[2]

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[1] For guidance, please refer to the Hinkle System Extension Request Quick Guide.

[2] Refer to the *Ohio Compliance Supplement* for further guidance.

Failing to file an annual financial report may be an indication the public office's records have not been maintained sufficiently to audit; and, therefore, may lead to the AOS determining the public office is "unauditable" (i.e. unable to be audited) in accordance with ORC §117.41.

When the AOS determines a public office's records are not sufficient to allow the audit to be performed, a letter is sent to the public office that formally declares the entity to be unauditable. If the public office fails to make reasonable efforts and continuing progress to bring its records into an auditable condition within 90 days after the unauditable declaration, the AOS shall request the Attorney General's Office commence legal action pursuant to Ohio Rev. Code §117.42 to compel the public office to bring its accounts, records, files, or reports into an auditable condition.

Per ORC §1724.06 and §1726.12, respectively, if a CIC (including economic development corporations and county land reutilization corporations) or development corporation fails to prepare and file its annual financial report with the AOS within 90 days of the time prescribed for filing (i.e. 210 days following the end of the fiscal year) or the AOS declares the CIC or development corporation unauditable, and the CIC or development corporation fails to then prepare and file its annual report within 90 days of the declaration, the AOS shall certify that fact to the Secretary of State's Office. The Secretary of State then shall cancel the articles of the CIC or development corporation, and all rights, privileges, and franchises conferred upon that CIC or development corporation will cease.

Auditing of Financial Statements Filed

In order to provide timely, relevant and accurate financial information and meet the objective of completing timely audits , it is critical that each entity file its annual financial report via the Hinkle System by the statutory or extended due date.

Although the ORC and OAC requirements discussed in this bulletin were clearly established to ensure public offices and other required entities prepare their annual financial reports completely, utilizing the mandated accounting basis, and by a date sufficient to allow for the timely completion of the financial audit, many entities have filed financial statements that were draft, incomplete, or on a basis other than which they intended to have audited. An annual financial report filing that only meets the statutory filing deadline, without regard for the accuracy and completeness of the financial statements, defeats the objective to complete the entity's financial audit in a timely manner. Rather, the entity's filing of their annual financial report should signal the final, unaudited financial statements have been prepared, are ready for public inspection, and are available for audit.

With this in mind, **beginning with audits of financial periods ending in 2016**, the AOS (and any independent public accounting (IPA) firms contracted to perform audits for the AOS) will audit the financial statements uploaded and submitted to the AOS via the Hinkle System. At the commencement of the audit, the AOS or IPA will verify with the entity that the financial statements submitted via the Hinkle System are the final, unaudited financial statements for the audit period. If the entity indicates the financial statements filed via the Hinkle System for the audit period require modification, the entity must contact the AOS via the Hinkle System Inquiry Form in order to re-file. The filing date and accounting basis of the re-filed annual financial report will then become the basis for determining compliance with the filing requirements discussed in this Bulletin.

As indicated earlier, to ensure compliance with the annual financial report filing requirements, entities should plan sufficient time and engage any necessary assistance to prepare their annual financial statements in order to meet the statutory filing due dates. Entities requiring assistance with any aspect of the preparation of their annual financial statements may wish to contact the AOS' Local Government Services.

Questions regarding this bulletin or regarding annual financial report filing requirements may be directed to the Hinkle System Inquiry Form.

Dave Yost
Ohio Auditor of State

Dave Yost · Auditor of State

Bulletin 2016-001

Auditor of State Bulletin

Date Issued: **April 20, 2016**

TO: **County Auditors**
County Clerks of Courts
County Commissioners
County Coroners
County Engineers
County Prosecuting Attorneys
County Recorders
County Sheriffs
County Treasurers
Judges
Boards of Elections Members

The guidance herein regarding (1) the timing of increases, (2) prorating salaries and (3) FOJ still applies. However, we have omitted County Commissioner Advisory Bulletin (CAB) 2015-01, previously appended to this Bulletin.

The guidance in AOS Bulletin 2019-01 / CAB 2019-02 superseded it.

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **Compensation Increase Legislation pertaining to Nonjudical County Elected Officials, Judges and Boards of Elections Members (House Bill Number 64)**

Attached is a copy of the County Commissioner Association of Ohio Advisory Bulletin 2015-01 outlining the various compensation increases for county elected officials set forth in House Bill 64, which was passed by the General Assembly as an emergency measure and took effect on September 29, 2015. The information in the CCAO's Advisory Bulletin has been reviewed by the Auditor of State's Office and we concur with its substantive content.

The Auditor of State's Office does point out two minor changes made to the original CCAO Advisory Bulletin attached to this document. On page 6, the second paragraph has been changed to correct references from "Tables 3 and 4" to "Table 2". In addition, the word "salary" has been modified to "salaries".

Also included in this Bulletin are discussions of three points relating to compensation increases that were reviewed in 2016 OAG 008 (hereinafter OAG 008). This opinion bears on issues relevant to changes in the compensation of elected officials which become effective during a current term in office.

Timing of Compensation Increases

Article II, Section 20 of the Ohio Constitution generally prohibits the compensation of an elected official being modified when the modification is adopted during the elected official's current term of office. What has been less clear is whether a person appointed to a vacancy in a county elected office (due to the death, resignation, or retirement of the incumbent) thereby commences a "new term of office"; and, if so, whether the appointee is entitled to the benefit of an increase in compensation that was enacted prior to his or her appointment, but after the commencement of the term in office of his or her predecessor.

After fully defining "term of office" under Ohio's applicable legal authority, OAG 008 opines that the phrase attaches to the person who is holding office, and not the length of time established by law for a single "term" of a particular public office. Accordingly, in conjunction with 1969 OAG 194, it is the opinion of the Attorney General that an individual who fills a vacancy in an elected position is entitled to a rate of compensation in effect at the time he or she commences his or her term of office, rather than the rate in effect when the appointee's predecessor began his or her term of office. However, OAG 008 makes a distinction: while a person appointed to a vacant position is entitled to the rate of compensation in effect at the time he or she commences his or her term of office, this is true **only if** the appointee and the incumbent officeholder are **not** the same person. Thus, an officeholder may not receive an increase in compensation that became effective during his or her term of office by simply resigning and then being reappointed to the same office. Rather, when an individual appointed to a vacant public office is the same person who held the office immediately prior to the occurrence of the vacancy, the individual continues his or her "original term" and is not entitled to an increase in salary.

Prorating Annual Salaries for Elected County Officeholders

Next, OAG 008 addresses a county official's annual salary. Generally speaking, a county official's salary is set at an annual rate. This annual rate designates the period of annual compensation from January 1 to December 31. Therefore, in order for a county official to receive his or her entire annual salary, he or she would have to serve in office for the entire calendar year from January 1 to December 31.

However, if a county official begins his or her term of office after January 1, the county official's salary should be prorated based on the number of days he or she actually serves in office.[1] Likewise, if a county official vacates his or her office before December 31, his or her salary should also be prorated to reflect the actual days served in office. Thus, a prorated annual salary will only apply in one of two specific instances: first, when an officeholder begins his or her term of office after the first day of the calendar year (January 1); or second, when an officeholder vacates his or her term of office (by death, resignation, retirement, etc.), prior to the last day of the calendar year (December 31).

[1] The prorated portion is to be calculated by multiplying the applicable daily rate of pay by the number of days served in office.

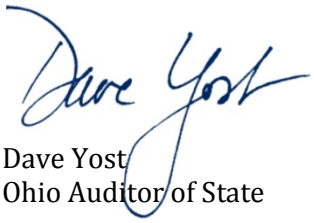
Payments to a County Sheriff's Furtherance of Justice Fund

Finally, OAG 008 concerned the appropriate amount that is to be allocated to a county sheriff's furtherance of justice (FOJ) fund for calendar year 2016. An FOJ's allocation is tied to the amount of a sheriff's statutory salary. Under R.C. 325.071, a county sheriff is afforded an annual FOJ allocation in an amount equal to one-half of the official salary allowed under R.C. 325.06(A) and 325.18. Thus, the plain language of R.C. 325.071 declares that a country sheriff shall receive in the FOJ fund an amount equal to one-half of the salary set forth in R.C. 325.06(A).

As such, when the General Assembly amends the sheriff compensation statute to provide for a salary increase, the FOJ fund should reflect this increase as well. This applies even though a particular sheriff may be "mid-term", and, therefore, may be prohibited from receiving an immediate increase in his or her salary. This is because R.C. 325.071 provides that a sheriff shall receive in his or her FOJ fund an amount equal to one-half of the salary **allowed by the statute**, not one-half of the salary actually received.

In addition, OAG 008 distinguishes a sheriff's FOJ fund from that provided for a prosecuting attorney. As to the FOJ fund of a prosecuting attorney of a county with a population of 70,001 or more, the prosecuting attorney is to receive as an annual FOJ fund allocation an amount equal to one-half of the salary he or she **receives**, not one-half of the salary prescribed by statute. This distinction suggests that the General Assembly intended to differentiate between the amounts allowable to the two types of FOJ funds — otherwise each of the statutes would have been enacted with the same language. Therefore, a county sheriff shall receive in his or her FOJ fund an amount equal to one-half of his or her annual salary allowed by R.C. 325.06(A), regardless of the amount of annual salary the sheriff actually receives, while the annual allocation to the FOJ fund of a prosecuting attorney is determined by the salary which the incumbent office holder actually receives.

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 legaldivision@ohioauditor.gov or at (614) 752-8683.



Dave Yost
Ohio Auditor of State

Dave Yost • Auditor of State

Auditor of State Bulletin 2016-004
Supersedes Bulletin 2016-003

DATE ISSUED: **September 13, 2016**

TO: **All AOS Financial Audit Staff**
All Public Offices, Agencies, Boards, and Commissions
Colleges and Universities
Independent Public Accountants

FROM: **Dave Yost, Auditor of State**

SUBJECT: **Credit Card Cash Withdrawals and Credit Card Controls in General**

Introduction

This is an amended advisory directed to public offices[1] and public officials[2] subject to the general laws of Ohio, including the provisions of Ohio Revised Code Sections (R.C.) 301.27, R.C. 505.28, R.C. 505.29, R.C. 505.64, R.C.1515.093, R.C. 3313.291 and R.C. 302.01, and subject to Section 12 U.S.C. 4007(2)(b). This amended advisory is provided to afford guidance to covered entities throughout the State and to Auditor of State audit staff and independent auditors who engage in audits of public entities. This advisory supersedes Bulletin 2016-003.

Policy Considerations

Cash is the monetary medium of choice for drug dealers and criminals for a reason: controls are difficult and tracing transactions is nearly impossible. For this reason, public transactions in cash are strongly disfavored.

With the widespread use of credit cards and similar electronic instruments, the Auditor of State has noted public entities using them for cash withdrawals. Very few reasons exist for a public entity to use cash, and the Auditor of State will view such transactions with a rebuttable presumption that cash withdrawals are not for a public purpose.

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[1] R. C. 117.01(D)
[2] R. C. 2921.01

This bulletin is designed to outline how a public entity should approach designing controls for the use of credit cards for cash withdrawals in those extraordinary situations where it is absolutely necessary.

Many public entities, but not all, are authorized to use credit cards under Ohio law, and legal requirements vary between entities. (For purposes of this discussion, "credit card" includes credit card, debit card, procurement card, payment card, fleet card or similar device.)

Ohio law does NOT explicitly authorize a public entity to use a credit card to withdraw cash from a financial transaction device or automated teller machine (hereinafter, ATM), or to obtain cash (back) in a credit card transaction. The first question to be answered is whether cash withdrawals are "necessarily implied" from other powers that are explicitly granted to the public entity. *See State ex rel. A. Bentley & Sons Co. v. Pierce*, 96 Ohio St. 44, 47, 117 N.E. 6, 7 (1917); *City of Youngstown v. Craver*, 127 Ohio St. 195, 201, 187 N.E. 715, 717 (1933).

If the governing body of the public entity determines that cash withdrawals are necessarily implied from its other powers, that determination should be memorialized by specific legislative action (or where applicable, administrative action). The action should explicitly authorize the cash withdrawals and reference the entities credit card policy -- see "Credit Card Policy" below for further detail.

AOS will presume that a cash withdrawal which has not been properly authorized was not made for a proper public purpose. Such presumption is rebuttable on the basis of a factual analysis.

NOTE: Any unauthorized cash withdrawal transaction may result in a non-compliance citation and/or finding for recovery, including joint and several liabilities, against the person or persons responsible for such misuse.[3] Further, each such act may constitute a violation of Section 2913.21 of the Ohio Revised Code, "Misuse of a Credit Card".

Discussion

When a public entity authorizes issuance of a credit card,[4] use of the card is for the efficient acquisition of goods or services solely for the benefit of the operation of the public entity. A governing framework of policies and procedures providing adequate tracking and control must be adopted and consistently utilized. Ohio Administrative Code (OAC) Section 117-2-01 provides that:

> 117-2-01 Internal controls.
>
> (A) All public officials are responsible for the design and operation of a system of internal control that is adequate to provide reasonable assurance regarding the achievement of objectives for their respective public offices in certain categories.

[3] R. C. 117.28
[4] The credit cards referenced here fall under the Electronic Funds Transfer Act, 15 U.S.C. § 1601, et seq.

(B) "Internal control" means a process affected (sic) by those charged with governance, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(1) Reliability of financial reporting;

(2) Effectiveness and efficiency of operations;

(3) Compliance with applicable laws and regulations; and

(4) Safeguarding of assets against unauthorized acquisition, use or disposition.

Absent proper authorization, there will be a presumption of non-compliance with OAC 117-2-01(A) and (B).

Credit Card Policy

Cash withdrawals are a tiny subset of all credit card activity, and require specific controls. These specific controls are in addition to the controls which should govern credit card use generally.

If an entity has authority to secure and to use a credit card, the governing body must create and adopt a credit card use policy to strengthen and to maintain internal controls over credit card transactions. The absence of an appropriate policy and of thorough monitoring of this activity increases the risk of unauthorized and/or otherwise improper expenditures that do not further the public purpose of the entity and are likely to result in audit findings or other sanctions.

This policy should include, at a minimum, the following provisions:

- Designation of the person or persons who are empowered to authorize and approve credit card transactions;
- The names and job titles of officers or employees who are authorized to use cards;
- Limits on the total dollar amount each authorized card user may incur as part of any individual transaction;
- A clear indication that the credit card may be used only for official business and for the benefit of the public entity;
- The disciplinary action or range of disciplinary actions which may be taken in the instances in which the credit card is utilized for other than a proper public expenditure/purpose or in violation of the entity's policies and procedures;
- If cash withdrawals are to be permitted, a comprehensive indication of the circumstances under which they are to be permitted and limits as to amounts of such withdrawals;
- A thorough listing of the documents which are to be created or secured, and maintained so as to create and to preserve an appropriate audit trail, and
- A statement signed by each potential card user acknowledging that he/she has read the credit card policy, understands it, and agrees to abide by it.

Further, the entity should consider inclusion in its policy of a definition of expenditures that are strictly prohibited (e.g. entertainment, alcoholic beverages, personal services, cash advances, etc.).

Conclusion

The use of credit cards maintained by public entities, although permitted in many instances under Ohio law, is particularly subject to potential abuse. The likelihood of such incidences is exacerbated when the transactions involve cash withdrawals. All public entities, therefore, should exercise the utmost care and diligence in authorizing and permitting credit card usage, particularly when cash withdrawals are involved. In addition, all public entities should develop, maintain, and strictly apply appropriate authorization and tracking controls incident to credit card usage, again with particular emphasis on cash withdrawals.

If you have any questions regarding this Bulletin please contact the AOS Center for Audit Excellence at (800) 282-0370 or the Legal Division at (800) 282-0370 or (614) 466-2929.

Dave Yost
Auditor of State

Dave Yost • Auditor of State

Bulletin 2017-001

Auditor of State Bulletin

Date Issued: **February 14, 2017**

To: **All Fiscal Officers and Independent Public Accountants**

From: **Dave Yost, Auditor of State**

Subject: **Governmental Accounting Boards Statement 77, Tax Abatement Disclosures**

Summary

Note: The following is only an overview. Governments preparing financial statements under generally accepted accounting principles (GAAP) or an other comprehensive basis of accounting (OCBOA) and their independent auditors are responsible for understanding of this Statement sufficiently to apply it to their financial statements and audit it, respectively. [1] Examples included in this bulletin are not all inclusive. Consult your legal counsel for applicability of tax abatement programs.

Background Information

The Governmental Accounting Standards Board (GASB) Statement No. 77, "Tax Abatement Disclosures," provides a definition of tax abatements which is for financial reporting purposes only and identifies required note disclosure related to tax abatements.

Local governments employ a variety of programs and policies that reduce the taxes an individual or entity otherwise would owe, with the intent of encouraging certain actions, such as constructing housing in a particular neighborhood or relocating/retaining businesses. The goal of GASB Statement No. 77 is to make tax abatement transactions more transparent, and to provide financial statement users with the information necessary to assess how tax abatements affect financial position and results of operations, including the future ability to raise resources and meet financial obligations.

The GASB issues an implementation guide (IG) each year to supplement the guidance found in the GASB pronouncements. The IG is organized in a question and answer format. This bulletin references specific questions related to tax abatement disclosures from the 2016-1 IG.

[1] You can view the entire statement at www.gasb.org.

This Statement applies to financial statements for reporting periods beginning after December 15, 2015. The Statement's provisions need not be applied to immaterial items. Governments should begin planning now to determine how to compile the information needed for these disclosures.

Tax Abatement Definition

For purposes of GASB Statement No 77, the definition of a tax abatement is as follows:

> A reduction in tax revenues that results from an agreement between one or more governments and an individual or entity in which (a) one or more governments promise to forgo tax revenues to which they are otherwise entitled and (b) the individual or entity promises to take a specific action after the agreement has been entered into that contributes to economic development or otherwise benefits the governments or the citizens of those governments. (GASB 77, paragraph 4)

This definition is important in distinguishing abatements from; for example, tax deductions, exemptions or credits, which often relate to a taxpayer's *past* actions such as deducting charitable donations made during the preceding year.

The transaction's substance, not its form or title, is a key factor in determining whether the transaction meets the above definition of a tax abatement.

Since this definition is fundamental to implementing GASB Statement No. 77, following is a discussion of the key elements of the definition:

Existence of an Agreement GASB 77 tax abatements result from an identifiable agreement between a government and a specific individual or entity. This agreement should have two components:

- Promise by the government to reduce taxes
- Promise from the individual or entity to subsequently perform a certain beneficial action

The agreement may be in writing or may be implicitly understood by the government and the individual or entity. (See GASB 77 paragraph B9 and B10)

Individual or Entity GASB 77 tax abatements have agreements with individuals or entities. If there are no individuals or entities required to perform an action that contributes to economic development or otherwise benefits the government or its citizens, the transaction does not meet the GASB 77 definition. (See IG 4.77)

Forgo Tax Revenue The GASB 77 definition is specific to tax revenue, including property, income, sales or other taxes levied by the local government. However, if there is a tax abatement agreement at the State level to forgo certain tax money, the local government would not disclose information about the tax abatement agreement if the local government revenue that is reduced is shared revenue, which is not considered to be taxes revenue to the local government. (See IG 4.80)

Agreement Precedes Reduction GASB 77 requires the agreement precede the performance of the required action by the individual or entity. If the action is performed prior to the agreement, the transaction does not meet the GASB 77 definition. (See GASB 77 Paragraph B11)

Taxes Abated by Another Government

Governments can enter into agreements which abate their own taxes; however, a government's taxes can also be abated as a result of agreements that are entered into by another government. Both types of abatements require note disclosure, if they meet the GASB 77 definition.

Note Disclosure

As noted above, this standard requires note disclosure about tax abatements. It does not require recognizing abatements in the financial statements. The following discussion provides an overview of the disclosure principles and requirements. The specific principles and requirements are addressed in paragraphs 5 through 10 of GASB Statement No. 77. These disclosures encompass tax abatements resulting from both (a) the reporting government's agreements and (b) other governments' agreements, if they reduce the reporting government's tax revenues.

Disclosures for tax abatements may be provided individually or may be aggregated. If tax abatements are disclosed individually, the disclosure should include a brief description of the quantitative threshold the government used to determine which agreements to disclose individually.

Disclosure should commence in the period in which a tax abatement agreement is entered into and continue until the tax abatement agreement expires, except in cases where the government made commitments other than to reduce taxes as part of the tax abatement agreement. In these instances, disclosures should be made until the government has fulfilled the commitment.

This Statement requires governments that enter into agreements for the abatement of taxes to include the following in their note disclosures (see paragraph 7 of GASB 77 for more specific information):

- Brief descriptive information, including the name and purpose of the abatement, the tax being abated, the authority under which tax abatements are provided, eligibility criteria, the mechanism by which taxes are abated, provisions for recapturing abated taxes, and the types of commitments made by tax abatement recipients;

- The gross dollar amount of taxes abated during the period;

- Commitments made by a government, other than to abate taxes, as part of a tax abatement agreement; and,

- Amounts received or receivable from other governments in association with the foregone tax revenue.

Disclosure information for tax abatements resulting from agreements entered into by the reporting government should be organized by major tax abatement program and may disclose information for individual tax abatement agreements within those programs.

Tax abatement agreements of other governments which result in the reduction of the tax revenues of the reporting government should be organized in the reporting government's disclosures by the government that entered into the tax abatements agreement and the specific tax being abated. Governments may disclose information for individual tax abatement agreements of other governments within the specific tax

being abated. For those tax abatement agreements, a reporting government should disclose (see paragraph 8 of GASB 77 for more specific information):

- The names of the governments that entered into the agreements and the specific taxes being abated;
- The gross dollar amount of taxes abated during the period; and,
- Amounts received or receivable from other governments in association with the foregone tax revenue.

If information is omitted because it is legally prohibited from being disclosed, include a description of the general nature of the omitted information and the specific source of the legal prohibition.

Potential GASB 77 Tax Abatement Programs and Sources of Information

Although not an exhaustive list, some of the more common programs with the *potential* for GASB 77 tax abatements include:

- Community Reinvestment Areas (CRAs)
- Enterprise Zone Agreements
- Tax Increment Financing Agreement (TIFs)
- Income Tax

Most TIFs will not meet the GASB 77 definition of a tax abatement. In most TIFs, the property owner is still making compensation payments in the same amount as the property tax, so the revenue is not forgone, it is; however, redirected and restricted as to use. However, TIFs should still be reviewed as there is still the potential for a TIF to meet the definition.

In order to accumulate the necessary information for the GASB 77 note disclosure for taxes abated by the local government, first identify the tax abatement programs offered by the local government and review the corresponding agreements to identify the ones meeting the GASB 77 definition. In order to determine the amount of property taxes abated, look at the appropriate property tax information. The Form C utilized for CRA annual reporting may provide some tax information. Also, the County Auditor's office may be able to provide additional information. If the government abates income taxes, the local government's records should be the best source of information.

In order to accumulate the necessary information for the GASB 77 note disclosure for taxes abated by another government, first, contact the local governments with the ability to abate your taxes to determine what information they can provide. Also, the County Auditor's office may be able to provide some information.

Audit Considerations - Evaluating Disclosure Misstatements

While a government's management is responsible for the contents of the financial report, an independent auditor's primary responsibility is to report on whether the basic financial statements, including the notes thereto, are presented fairly in accordance with the financial reporting framework. GASB codification 2300.108 indicates notes to the financial statements provide necessary disclosure of material items, the omission of which would cause the financial statements to be misleading.

As noted in GASB No. 77, the disclosure requirements "improve financial reporting by giving users of financial statements essential information that is not consistently or comprehensively reported to the public at present. Disclosure of information about the nature and magnitude of tax abatements will make these transactions more transparent to financial statement users. As a result, users will be better equipped to understand (1) how tax abatements affect a government's future ability to raise resources and meet its financial obligations and (2) the impact those abatements have on a government's financial position and economic condition."

Auditors opine not only on amounts but also on assertions related to disclosures. Auditors should use their professional judgment when evaluating a tax abatement disclosure misstatement or omission considering quantitative (such as the gross reduction in tax revenues that results from the agreement) and qualitative factors (such as identified in the preceding paragraph) related to the disclosure misstatements or omissions.

Auditors should document their evaluation and conclusions in their working papers.

Applicability to Non-GAAP Entities

Governments that prepare OCBOA financial statement (i.e. GAAP look-alike) will need to include the GASB 77 disclosures in their financial statements. Governments not *statutorily* required to prepare GAAP financial statements that prepare regulatory basis financial statements (i.e. AOS basis) will not need to include the GASB 77 disclosures in their financial statements but may include disclosures, if management chooses. However, governments *statutorily* required to prepare GAAP statements that choose to prepare regulatory financial statements instead, will need to make the GASB 77 disclosures in their notes to the financial statements.

Resources Available on the Auditor of State's Website

The Auditor of State's Office has a FAQ document related to GASB 77's implementation available on our website at http://www.ohioauditor.gov/references/gasb77.html. This document will be updated as further information becomes available.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact Local Government Services at the Auditor of State's Office at (800) 345-2519. Questions from IPAs should be directed to the AOS Center for Audit Excellence at (800) 282-0370.

Dave Yost • Auditor of State

CLARIFIED
Bulletin 2017-002

Auditor of State Bulletin

Date Issued: **April 19, 2017**

To: **Ohio Townships and Independent Public Accountants**

From: **Dave Yost, Ohio Auditor of State**

Subject: **Board of Township Trustees' Authority to Reimburse for Health Care Premiums**

Background Information

Attached are a copy of 2017 Ohio Attorney General Opinion 2017-007, formally issued on March 13, 2017, and a copy of the 21st Century Cures Act, a recent amendment to the Federal Patient Protection and Affordable Care Act (ACA). This bulletin references the opinion and the ACA as they relate to reimbursement of healthcare premiums for township trustees in Ohio. Since the Attorney General opinion was issued after the beginning of a fiscal year, the Auditor of State has determined that a grace period should be provided to allow townships time to comply with this requirement and allow individuals an opportunity to make alternative arrangements for healthcare coverage. As such, the Auditor of State will not issue findings for recovery in accordance with Opinion 2017-007 and the guidance in this Bulletin until audits to be performed on FY18.

Ohio Revised Code Section 505.60

An Ohio township is a creature of statute, and a board of township trustees is permitted to exercise only those powers granted, expressly or impliedly, by the state legislature.[1]

In 2017 Op. Att'y Gen. No. 17-007, Ohio Attorney General Mike DeWine (OAG) reaffirmed that venerable, general principle and addressed the following question:

> Whether R.C. 505.60(D) permits a township to reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage for his immediate

[1] 2017 Op. Att'y Gen. No. 2017-007, citing *In re Petition of Incorp. of Vill. Of Holiday City*, 70 Ohio St. 3d 356, 369, 639 N.E.2d 42 (1994).

> dependents when the township officer or employee elects single coverage participation in the township's health care plan and does not elect coverage for his immediate dependents.

Division (A) of Section 505.60 of the Ohio Revised Code grants a board of township trustees the authority to provide health insurance coverage to its officers and employees. That section provides that, if a board of trustees secures any insurance policies pursuant to the enactment, the board must "provide uniform coverage under these policies for township officers and full-time employees and their immediate dependents, and may provide coverage under these policies for part-time township employees and their immediate dependents . . ."

Division (D) of Section 505.60 of the Ohio Revised Code addresses the authority of a board of township trustees to reimburse its officers and employees for out-of-pocket premiums attributable to health care coverage that he or she otherwise obtains. Section 505.60(D) provides that:

> If any township officer or employee is denied coverage under a health care plan procured under this section or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium attributable to the coverage provided for the officer or employee and their immediate dependents for insurance benefits described in division (A) of this section that the officer or employee otherwise obtains, but not to exceed an amount equal to the average premium paid by the township for its officers and employees under any health care plan it procures under this section.

The OAG explained in 2017 Op. Att'y Gen. No. 17-007 that a plain reading of Section 505.60(D) reveals "two alternative conditions precedent." In general terms, a "condition precedent" is an act or event that must happen before something else can occur.[2] As such, the OAG opined that, under the unambiguous language of Section 505.60(D), townships are permitted to reimburse an officer or employee for out-of-pocket health care costs attributable to the coverage which the officer or employee secures for himself or herself and his or her immediate dependents from a source other than the township, only if one of the following two conditions precedent exists:

1. The township officer or employee has been denied coverage under a health care plan that has been procured by the township and offered to its officers and employees pursuant to Section 505.60; or
2. The township officer or employee has elected not to participate in the township's health care plan.

It is the OAG's opinion that, if a township officer or employee elects to receive individual coverage under a township's health care plan, the township is not permitted to reimburse the township officer or employee, or his or her dependents for the out-of-pocket premium costs of health care coverage secured from a source other than the township for his or her immediate dependents. In

[2] *See* "condition precedent," CONDITION, Black's Law Dictionary (10th ed. 2014).

such a scenario, neither of the two alternative conditions precedent has occurred, and, therefore, such reimbursement is impermissible.

It is the conclusion of the OAG, therefore, that Section 505.60(D) of the Ohio Revised Code does not grant a board of township trustees the authority to provide reimbursement to an officer or employee "for out-of-pocket premiums attributable to health care coverage otherwise obtained for the officer or employee's immediate dependents when the officer or employee elects to participate in the township's health care plan, but elects not to participate in the township's health care plan for his immediate dependents."

Ohio Revised Code Section 505.601

The potential reimbursement by employers of health insurance premiums incurred by an employee for coverage secured through another source involves implications under the Affordable Care Act (ACA). Section 505.601 provides generally that the board of trustees of an Ohio township which does not procure group health care coverage and provide it to its officers and employees may reimburse its officers and employees for premiums attributable to coverage secured from another source. That enactment contains specific limitations and procedural requirements which are incident to the reimbursement process.

As indicated in AOS Bulletin 2015-002, the Internal Revenue Service and the Department of Labor have interpreted the ACA as prohibiting the longstanding practice of Ohio townships of providing health insurance premium reimbursement to township officers and employees. Under the Federal interpretation, employers affording such reimbursement are subject to substantial financial penalty. In 2015 Op. Att'y Gen. No. 15-021, the OAG indicated, in part, that such premium reimbursement by employers is not permissible under the ACA unless the practice has been integrated with a qualifying group health care plan offered by the employer. Since the release of AOS Bulletin 2015-002 and 2015 Op. Att'y Gen. No. 15-021, however, the Federal 21st Century Cures Act (the Act), a recent amendment to the ACA, was signed into law with an effective date of January 1, 2017. The Act creates an exception for "Qualified Small Employer Health Reimbursement Arrangements." Qualified, eligible employers who make health care reimbursements through such an arrangement are now exempt from the ACA's requirements applicable to group health care plans, and premium reimbursements by qualifying employers is permissible without threat of penalty.

To qualify for the exception, a township must be an "eligible employer." An eligible employer is any employer which employs fewer than 50 full-time or full-time equivalent (FTE) employees, and which does not offer a group health plan to any of its employees. The Act contains specific provisions related to the calculation of full-time and FTE employment. In addition, all of the following must be applicable to the offered reimbursement program:

1. It is provided uniformly to all eligible employees;
2. It is funded solely by the eligible employer;
3. No salary reduction contributions are made under the reimbursement plan; and

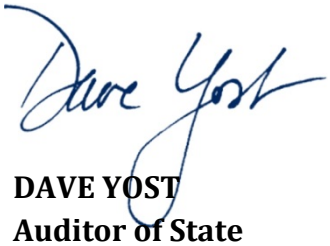
4. Payments and reimbursements for any year do not exceed $4,950.00 per employee ($10,000 if the arrangement provides for payments or reimbursements for family members of employee)

Any township which is an eligible employer, and provides reimbursement to its officers and employees in in a manner consistent with the requirements established in the Act may offer reimbursements under Section 505.601 of the Ohio Revised Code in full compliance with state and Federal law, and without threat of sanction.

The Act is effective as to the years beginning after December 31, 2016. As stated in the background the AOS will not issue findings for recovery in accordance with Opinion 2017-007 and the guidance in this Bulletin until audits performed for periods beginning after December 31, 2017.

It is the AOS's recommendation that townships seek legal advice if questions arise regarding health care plans and reimbursement programs, and before undertaking the latter.

If you have any questions regarding this Bulletin please contact the AOS Center for Audit Excellence at (800) 282-0370 or the Legal Division at (800) 282-0370 or (614) 466-2929.



DAVE YOST
Auditor of State

March 13, 2017

The Honorable Paul J. Gains
Mahoning County Prosecuting Attorney
6th Floor Administration Building
21 West Boardman Street
Youngstown, Ohio 44503

SYLLABUS: 2017-007

R.C. 505.60(D) does not authorize a board of township trustees to reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage otherwise obtained for the officer or employee's immediate dependents when the officer or employee elects to participate in the township's health care plan, but elects not to participate in the township's health care plan for his immediate dependents.

MIKE DEWINE
★ OHIO ATTORNEY GENERAL ★

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March 13, 2017

OPINION NO. 2017-007

The Honorable Paul J. Gains
Mahoning County Prosecuting Attorney
6th Floor Administration Building
21 West Boardman Street
Youngstown, Ohio 44503

Dear Prosecutor Gains:

You have requested an opinion whether R.C. 505.60(D) permits a township to reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage for his immediate dependents when the township officer or employee elects single coverage participation in the township's health care plan and does not elect coverage for his immediate dependents.[1] You specifically ask the following questions:

1. Does the plain and ordinary meaning of the language, "elects not to participate," in R.C. 505.60(D) include the ability of the township officer or employee to elect any of the offered levels of participation which may include the township officer or employee, yet excludes one or more of the township officer or employee's dependents?

2. Must R.C. 505.60(D) be read to comport with its clearly intended purpose to increase the options available to township officers and employees to obtain health

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[1] When providing health care insurance plans to officers and employees, a township may present different categories of coverage options to the officer or employee. These options may include single or family coverage, but these options may not be the only options offered within a township's health care insurance plan. The terms "single coverage" and "family coverage" are not defined by statute. For purposes of this opinion, we understand election of "single coverage" to mean that the township officer or employee has elected health care insurance coverage for himself as an individual, and "the election of family coverage" to mean that the officer or employee has elected health care insurance coverage for himself and his immediate dependents. "While the term immediate dependents is not defined by statute, the term, used in its ordinary sense, includes [an officer or employee's] spouse and other members of the [officer or employee's] immediate family." 1992 Op. Att'y Gen. No. 92-068, at 2-282 (modified, in part, on other grounds by 2005 Op. Att'y Gen No. 2005-038). Accordingly, the election of family coverage may include the officer or employee's spouse, his children, or both his spouse and children.

care coverage in the most cost effective manner to both the townships and township officers and employees?

3. Does R.C. 505.60(D) expressly permit the reimbursement for immediate dependents of township officers or employees who elect single coverage participation in the township's health care plan, but who do not elect coverage for their dependents? Alternatively, is R.C. 505.60(D) limited to permit reimbursement of out-of-pocket premiums for the immediate dependents of township officers or employees only when the township officer or employee declines to participate in the township's health plan?

Insofar as these questions inquire as to the same issue, we have addressed your queries together.

A board of township trustees is a creature of statute and, therefore, possesses only those powers vested in it, either expressly or impliedly, by the General Assembly. *In re Petition of Incorp. of Vill. of Holiday City*, 70 Ohio St. 3d 365, 369, 639 N.E.2d 42 (1994); 2008 Op. Att'y Gen. No. 2008-018, at 2-199. Thus, whether a township officer or employee may be reimbursed by a board of township trustees for out-of-pocket premiums attributable to health care insurance coverage otherwise obtained by an officer or employee for his immediate dependents depends upon whether the General Assembly has expressly or impliedly authorized the board of township trustees to make such a reimbursement. *See* 1990 Op. Att'y Gen. No. 90-064, at 2-271 ("R.C. 505.60 allows the board to provide insurance for its officers and employees only in the manner specified in the statute; further, any arrangements incidental thereto are similarly restricted by the terms of the statute"); *see also State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99, 115 N.E. 571 (1916) ("[t]he authority to act in financial transactions must be clear and distinctly granted" and any doubt concerning the authority to expend public funds must be resolved against the expenditure). Division (A) of R.C. 505.60 authorizes a board of township trustees to provide health insurance coverage to its officers and employees and their immediate dependents:

> As provided in this section and [R.C. 505.601[2]], the board of township trustees of any township may procure and pay all or any part of the cost of insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance, or a combination of any of the foregoing types of insurance for township officers and employees….

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[2] R.C. 505.60 operates independently of R.C. 505.601 and the statutes are mutually exclusive. 2005 Op. Att'y Gen. No. 2005-038, at 2-400 n.3. The township that is the subject of your inquiry offers health care insurance coverage to its officers and employees under R.C. 505.60(A). Accordingly, we limit our analysis to R.C. 505.60.

> If the board procures any insurance policies under this section, the board shall provide uniform coverage under these policies for township officers and full-time employees and their immediate dependents, and may provide coverage under these policies for part-time township employees and their immediate dependents, from the funds or budgets from which the officers or employees are compensated for services, such policies to be issued by an insurance company duly authorized to do business in this state. (Footnote added).

Division (D) of R.C. 505.60 authorizes the township to reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage for immediate dependents under certain conditions. R.C. 505.60(D) provides that:

> If any township officer or employee is denied coverage under a health care plan procured under this section or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium attributable to the coverage provided for the officer or employee and their immediate dependents for insurance benefits described in [R.C. 505.60(A)] that the officer or employee otherwise obtains, but not to exceed an amount equal to the average premium paid by the township for its officers and employees under any health care plan it procures under this section.

The plain language of R.C. 505.60(D) specifies two alternative conditions precedent for a township officer or employee to receive a reimbursement of out-of pocket premiums attributable to health care coverage for the officer or employee's immediate dependents that the officer or employee otherwise obtains. The first condition is that the officer or employee is denied health care coverage under a health care plan procured under R.C. 505.60. The second condition is the officer or employee elects not to participate in the township's health care plan. The second alternative condition is relevant to answering your questions.

Whether a township may reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage that the officer or employee otherwise obtains for his immediate dependents depends, in part, upon the meaning of the phrase, "elects not to participate," in R.C. 505.60(D). The terms within this phrase are not defined by statute. Words and phrases not defined by statute "shall be read in context and construed according to the rules of grammar and common usage." R.C. 1.42. "To participate" means "to take part," or "to have a part or share in something." *Merriam-Webster's Collegiate Dictionary* 903 (11th ed. 2005). "Participation" is the "the act of participating," or "the state of being related to a larger whole." *Id.* The term, "not" as used in this phrase, is an adverb that serves as "a function word to make negative a group of words or a word." *Id.* at 848. Hence, the use of "not" before "to participate" when referring to the election of a health care plan offered by a township indicates that an election does not happen and no participation of any kind occurs. Accordingly, when a township officer or employee "elects not to participate" in a health care plan offered by a township, he elects not to participate in any part of a health care plan offered by the township.

R.C. 505.60(D) states plainly and unambiguously that an officer or employee that "elects not to participate" in the township's health care plan may be reimbursed. The language of the statute does not state that an officer or employee that elects single coverage under the township's health care plan rather than family coverage may be reimbursed for out-of-pocket premiums attributable to coverage otherwise obtained for his immediate dependents. The statute also does not state that the election of single coverage by an officer or employee of the township constitutes electing not to participate for the purpose of being eligible for such reimbursement.

There is a clear difference between the meaning of a "health care plan" provided by a township and "health care coverage" options provided within a township's health care plan. The General Assembly uses the term "coverage" in R.C. 505.60(A) ("the board shall provide uniform *coverage*"; "may provide *coverage* under these policies for part-time township employees and their immediate dependents") (emphasis added); R.C. 505.60(B) ("[t]he board may also provide *coverage* for any or all of the benefits described in [R.C. 505.60(A)]") (emphasis added); and R.C. 505.60(C) ("[a]ny township officer or employee may refuse to accept any *coverage* authorized by this section without affecting the availability of such *coverage* to other township officers and employees") (emphasis added). The General Assembly uses the term "plan" in R.C. 505.60(B)(1) ("[c]hoose between a *plan* offered by an insurance company and a *plan* offered by a health insuring corporation, and provided further that the officer or employee pays any amount by which the cost of the *plan* chosen exceeds the cost of the *plan* offered by the board") (emphasis added). The General Assembly uses both terms in R.C. 505.60(B)(2) ("[a]n addition of a class or change of definition of *coverage* to the *plan* offered under this division by the board may be made at any time that it is determined by the board to be in the best interest of the township") (emphasis added); R.C. 505.60(D) ("[i]f any township officer or employee is denied *coverage* under a health care *plan* procured under this section or if any township officer or employee elects not to participate in the township's health care *plan*, the township may reimburse the officer or employee for each out-of-pocket premium attributable to the *coverage* provided for the officer or employee and their immediate dependents for insurance benefits described in [R.C. 505.60(A)] that the officer or employee otherwise obtains") (emphasis added); and R.C. 505.60(F) ("[i]f a board of township trustees fails to pay one or more premiums for a policy, contract, or *plan* of insurance or health care services authorized under this section and the failure causes a lapse, cancellation, or other termination of *coverage* under the policy, contract, or *plan*, it may reimburse a township officer or employee for, or pay on behalf of the officer or employee, any expenses incurred that would have been covered under the policy, contract, or *plan*") (emphasis added).

The use of the two different terms reinforces the principle that the General Assembly was cognizant of the separate meaning of each word, and the choice of language was deliberate. *See Inglis v. Pontius*, 102 Ohio St. 140, 149, 131 N.E. 509 (1921) ("[i]t will be presumed that the general assembly had some purpose in mind in using both words instead of only one, and unless the words are inconsistent or contradictory it is the duty of the courts to give effect to both words"). A township health care plan will typically include multiple coverage options for an officer or employee. When an officer or employee selects among the different coverage options, whether a single coverage election or a family coverage election, he thereby participates in the township's health care plan under R.C. 505.60(D). Instead of stating "elects not to participate in the township's health care plan," the General

Assembly could have stated that the officer or employee "elects not to obtain coverage for his immediate dependents" in order to receive reimbursement for out-of-pocket premiums attributable to health care coverage otherwise obtained by the officer or employee for his immediate dependents. *See Lake Shore Elec. Ry. Co. v. P.U.C.O.*, 115 Ohio St. 311, 319, 154 N.E. 239 (1926) (had the General Assembly intended a term to have a particular meaning, "it would not have been difficult to find language which would express that purpose"). A board of township trustees is not authorized to make such a distinction that is not expressly delineated in the statute. Therefore, R.C. 505.60(D) does not authorize a board of township trustees to reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage otherwise obtained for the officer or employee's immediate dependents when the officer or employee elects to participate in the township's health care plan, but elects not to participate in the township's health care plan for his immediate dependents.

You suggest that the statutory analysis in 2005 Op. Att'y Gen. No. 2005-038 and the General Assembly's response to the conclusion in 2012 Op. Att'y Gen. No. 2012-027 permit us to read "elects not to participate" in R.C. 505.60(D) to mean that if an officer or employee elects for his immediate dependents not to participate in the township's health care plan, the out-of-pocket premiums attributable to coverage he otherwise obtains for his dependents remain reimbursable, even though he elects coverage for himself under the township's health care plan. 2005 Op. Att'y Gen. No. 2005-038 addressed the authority of a township to reimburse a township officer or employee for health care coverage he otherwise obtained through the health care plan of his spouse's employer. When 2005 Op. Att'y Gen. No. 2005-038 was issued, R.C. 505.60(C), now R.C. 505.60(D), authorized a township to "reimburse the officer or employee for each out-of pocket premium that the officer or employee *incurs* for insurance policies described in [R.C. 505.60(A)] that the officer or employee otherwise obtains." (Emphasis added.)[3] The Attorney General recognized that the meaning of "incurs" ordinarily is associated with liability for the costs for health care premiums required by a

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[3] In 2008 the General Assembly enacted Sub. H.B. 458, 127th Gen. A. (2008) (eff. Dec. 30, 2008), for the purpose of amending the language of R.C. 505.60 and reordering its provisions. Prior to the enactment of Sub. H.B. 458, the language of R.C. 505.60(C) declared, in part, that,

> [i]f any township officer or employee is denied coverage under a health care plan … or if any township officer or employee elects not to participate in the township's health care plan, the township may reimburse the officer or employee for each out-of-pocket premium that the officer or employee incurs for insurance policies described in [R.C. 505.60 (A)] that the officer or employee otherwise obtains[.]

Sub. H.B. 458 reordered the provisions of R.C. 505.60 by moving the language of then division (C) to a new division (D). Further, Sub. H.B. 458 amended the language of new division (D) to state, in pertinent part, that "the township may reimburse the officer or employee for each out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits described in [R.C. 505.60 (A)] that the officer or employee otherwise obtains[.]" The bill removed the term "incurs" from new division (D).

spouse's employer-provided health plan. A literal reading of the phrase "that the officer or employee incurs" was rejected by the Attorney General because the officer or employee would never be the individual incurring the liability when his spouse's employer provided the health coverage that he obtained. Rather, only his spouse would be liable to the employer. As noted in your request, the opinion reasoned that

> [b]y authorizing townships to reimburse their officers and employees for out-of-pocket expenses for health care coverage obtained other than through the township, the General Assembly clearly intended to increase the options available to township officers and employees to obtain health care coverage in the most cost-effective manner to both the townships and township personnel.

2005 Op. Att'y Gen. No. 2005-038, at 2-401. "[I]f possible, statutes must be construed so that some operative effect is given to every word written in them. However, if a literal construction of the wording of a statute leads to gross absurdity, manifestly contradictory to common reasoning, the court may interpret the statute so as to arrive at a logical conclusion." *State v. Gordon*, 161 Ohio Misc. 2d 1, 3, 940 N.E.2d 1042 (C.P. Lake County 2010). The ambiguity of "incurs" concerned the out-of-pocket premiums attributable to the health care coverage otherwise obtained by the township officer or employee. These premiums were indirectly incurred as an expense of the family, but failed to qualify for reimbursement because the spouse's employer-provided health care premiums were not directly incurred by the township officer or employer. A plain language reading of "incurs" would have thwarted the General Assembly's intent to provide flexibility in the options available and be cost-effective to the township and its personnel in its provision of a health care plan. The application of a literal meaning of the word "incurs" would not have permitted a township officer or employee to be reimbursed for a spouse's out-of-pocket premiums attributable to the spouse's employer-provided health care plan as the township officer or employee did not personally, or directly, incur the out-of-pocket premiums. This would be an unreasonable result and contrary to the intent of the General Assembly, as the officer or employer would be foreclosed from the option to participate in a health care plan provided by his spouse's employer.

R.C. 505.60(D) identifies two alternative conditions precedent that determine whether a township officer or employee may be reimbursed for out-of-pocket premiums attributable to health care coverage of an officer or employee's immediate dependents: the township's health care plan denies coverage to the officer or employee, or the officer or employee elects not to participate in the township's health care plan. Either of the two conditions precedent must be present before an officer or employee may be reimbursed for out-of-pocket premiums attributable to health care coverage he otherwise obtains for his immediate dependents. The election of single coverage under a township health care plan by a township officer or employee forecloses his eligibility for reimbursement of premiums attributable to health care coverage he otherwise obtains for his immediate dependents. Thus, the plain language renders a result feasible of implementation. *See* R.C. 1.47 (B), (D) (in enacting statutes, it is presumed that the legislature means for the entire statute to be effective and that a result capable of execution is intended). Because a feasible result may be executed within the plain language of the statute, no ambiguity exists. Accordingly, an analysis relying on the intent of the

General Assembly is unnecessary. *See In re Kyle*, 510 B.R. 804, 811 (Bankr. S.D. Ohio 2014) ("[i]f the statutory language is clear, the inquiry ends and the court must apply the plain language").

You explain that in the present circumstance the spouses of two officers of a township are each eligible for insurance coverage under Medicare. In each instance, the cost to the township of providing reimbursement to the officer for the Medicare premiums for the spouse as an immediate dependent is less than the cost of providing family health care coverage under the township health care plan that includes the township officer's spouse. To disallow a reimbursement in this situation when the officer elects single coverage would in effect incentivize the officer to elect family coverage, thereby increasing the total cost incurred by the township. While the overall cost of health care coverage that includes coverage of a township officer or employee's immediate dependents may be higher than single coverage for the township officer or employee, the township may limit the amount that the township is willing to pay for each township officer or employee. *See* R.C. 505.60(A) ("the board of township trustees of any township may procure and pay all or *any part of the cost* of insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance, or a combination of any of the foregoing types of insurance for township officers and employees" (emphasis added)); 1990 Op. Att'y Gen. No. 90-064, at 2-272 (if the board does procure uniform health insurance coverage to all officers and employees and their immediate dependents, the board is not required to pay the entire costs of providing uniform health insurance coverage, but may limit payment on behalf of each officer or employees to a fixed amount); *see also* 2004 Op. Att'y Gen. No. 2004-004, at 2-37 ("[i]t appears to be common practice for public employers that provide their employees health care coverage to charge such employees one sum for individual coverage and a greater sum for family coverage, because, as a general rule, the cost of obtaining family coverage exceeds the cost of single coverage").

In 2012 Op. Att'y Gen. No. 2012-027, the Attorney General addressed the eligibility of a township officer or employee to be reimbursed for out-of-pocket premiums attributable to health care coverage that he otherwise obtained for his immediate dependents. A plain language analysis was utilized that focused on the absence of the phrase "and their immediate dependents." The opinion recognized that this phrase, "and their immediate dependents" was not included in R.C. 505.60(D). The phrase, "and their immediate dependents," however, had been included in R.C. 505.60(A), R.C. 505.60(B), and R.C. 505.601. The Attorney General reiterated that prior opinions consistently concluded that R.C. 505.60 allowed a board of township trustees to provide insurance for its officers and employees only in the manner specified in the statute. 2012 Op. Att'y Gen. No. 2012-027, at 2-236; s*ee, e.g.,* 1990 Op. Att'y Gen. No. 90-064 (syllabus) ("[p]ursuant to R.C. 505.60(A), the board of township trustees may procure health insurance benefits which offer uniform coverage to township officers and full-time employees and their immediate dependents, while paying only that portion of the insurance premium attributable to the officer or employee"); 1989 Op. Att'y Gen. No. 89-009, at 2-35 (overruled, in part, on other grounds by 2008 Op. Att'y Gen. No. 2008-018) ("[t]he conspicuous absence of such a statement [that township trustees may make payments to township officers and employees as reimbursement for deductible payments] in R.C. 505.60(A) suggests that such authority on the part of a board of township trustees may not be implied").

2012 Op. Att'y Gen. No. 2012-027 concluded that no language in R.C. 505.60(D) expressly authorized reimbursement for out-of-pocket premiums attributable to the coverage otherwise obtained for an officer or employee's immediate dependents. Thus, in the absence of the phrase "and their immediate dependents," a township officer or employee was not to be reimbursed for out-of-pocket health care premiums for coverage otherwise obtained for the officer or employee's immediate dependents. Following the issuance of 2012 Op. Att'y Gen. No. 2012-027, the General Assembly amended R.C. 505.60(D) to insert the language "and their immediate dependents" so that out-of-pocket premiums attributable to health care coverage for the officer or employee's immediate dependents could be reimbursed under certain conditions. *See* Sub. H.B. 347, 129th Gen. A. (2012) (eff. Mar. 22, 2013). While we agree that the 2012 amendment of R.C. 505.60(D) was intended to allow reimbursement for an officer or employee out-of-pocket premiums for health care coverage otherwise obtained for his immediate dependents, we do not agree that the amendment evidences an intent that the reimbursement occur when the officer or employee elects to participate for himself, but not for his immediate dependents. Again, the plain language of R.C. 505.60(D) is "elects not to participate in the health care plan."

The facts and circumstances of your inquiry revolve around the specific language of R.C. 505.60(D), rather than the absence of a specific word or phrase. When alternative express conditions precedent are stated in plain language, as is the case with R.C. 505.60(D), we are constrained to apply that plain language. If a different result is desired, the remedy may be attained by seeking an amendment of the statute by the General Assembly. *Cf. State ex rel. Nimberger v. Bushnell*, 95 Ohio St. 203, 116 N.E. 464 (1917) (syllabus, paragraph four) ("[w]hen the meaning of the language employed in a statute is clear, the fact that its application works an inconvenience or accomplishes a result not anticipated or desired should be taken cognizance of by the legislative body, for such consequence can be avoided only by a change of the law itself, which must be made by legislative enactment").

Conclusion

On the basis of the foregoing, it is my opinion, and you are hereby advised that R.C. 505.60(D) does not authorize a board of township trustees to reimburse a township officer or employee for out-of-pocket premiums attributable to health care coverage otherwise obtained for the officer or employee's immediate dependents when the officer or employee elects to participate in the township's health care plan, but elects not to participate in the township's health care plan for his immediate dependents.

Very respectfully yours,

MICHAEL DEWINE
Ohio Attorney General

adjustment model under the Medicare Advantage program under part C of title XVIII of the Social Security Act, including any revisions to either such model since the previous report. Such report shall include information on how such revisions impact the predictive ratios under either such model for groups of enrollees in Medicare Advantage plans, including very high and very low cost enrollees, and groups defined by the number of chronic conditions of enrollees.

(B) STUDY AND REPORT ON FUNCTIONAL STATUS.—

(i) STUDY.—The Comptroller General of the United States (in this subparagraph referred to as the "Comptroller General") shall conduct a study on how to most accurately measure the functional status of enrollees in Medicare Advantage plans and whether the use of such functional status would improve the accuracy of risk adjustment payments under the Medicare Advantage program under part C of title XVIII of the Social Security Act. Such study shall include an analysis of the challenges in collecting and reporting functional status information for Medicare Advantage plans under such part, providers of services and suppliers under the Medicare program, and the Centers for Medicare & Medicaid Services.

(ii) REPORT.—Not later than June 30, 2018, the Comptroller General shall submit to Congress a report containing the results of the study under clause (i), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 17007. IMPROVEMENTS TO THE ASSIGNMENT OF BENEFICIARIES UNDER THE MEDICARE SHARED SAVINGS PROGRAM.

Section 1899(c) of the Social Security Act (42 U.S.C. 1395jjj(c)) is amended—

(1) by striking "utilization of primary" and inserting "utilization of—

"(1) in the case of performance years beginning on or after April 1, 2012, primary";

(2) in paragraph (1), as added by paragraph (1) of this section, by striking the period at the end and inserting "; and";

(3) by adding at the end the following new paragraph:

"(2) in the case of performance years beginning on or after January 1, 2019, services provided under this title by a Federally qualified health center or rural health clinic (as those terms are defined in section 1861(aa)), as may be determined by the Secretary.".

TITLE XVIII—OTHER PROVISIONS

SEC. 18001. EXCEPTION FROM GROUP HEALTH PLAN REQUIREMENTS FOR QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986 AND THE PATIENT PROTECTION AND AFFORDABLE CARE ACT.—

(1) IN GENERAL.—Section 9831 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(d) EXCEPTION FOR QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.—

"(1) IN GENERAL.—For purposes of this title (except as provided in section 4980I(f)(4) and notwithstanding any other provision of this title), the term 'group health plan' shall not include any qualified small employer health reimbursement arrangement.

"(2) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified small employer health reimbursement arrangement' means an arrangement which—

"(i) is described in subparagraph (B), and

"(ii) is provided on the same terms to all eligible employees of the eligible employer.

"(B) ARRANGEMENT DESCRIBED.—An arrangement is described in this subparagraph if—

"(i) such arrangement is funded solely by an eligible employer and no salary reduction contributions may be made under such arrangement,

"(ii) such arrangement provides, after the employee provides proof of coverage, for the payment of, or reimbursement of, an eligible employee for expenses for medical care (as defined in section 213(d)) incurred by the eligible employee or the eligible employee's family members (as determined under the terms of the arrangement), and

"(iii) the amount of payments and reimbursements described in clause (ii) for any year do not exceed $4,950 ($10,000 in the case of an arrangement that also provides for payments or reimbursements for family members of the employee).

"(C) CERTAIN VARIATION PERMITTED.—For purposes of subparagraph (A)(ii), an arrangement shall not fail to be treated as provided on the same terms to each eligible employee merely because the employee's permitted benefit under such arrangement varies in accordance with the variation in the price of an insurance policy in the relevant individual health insurance market based on—

"(i) the age of the eligible employee (and, in the case of an arrangement which covers medical expenses of the eligible employee's family members, the age of such family members), or

"(ii) the number of family members of the eligible employee the medical expenses of which are covered under such arrangement.

The variation permitted under the preceding sentence shall be determined by reference to the same insurance policy with respect to all eligible employees.

"(D) RULES RELATING TO MAXIMUM DOLLAR LIMITATION.—

"(i) AMOUNT PRORATED IN CERTAIN CASES.—In the case of an individual who is not covered by an arrangement for the entire year, the limitation under subparagraph (B)(iii) for such year shall be an amount which bears the same ratio to the amount which would (but for this clause) be in effect for such individual for such year under subparagraph (B)(iii) as the number of months for which such individual is covered by the arrangement for such year bears to 12.

"(ii) INFLATION ADJUSTMENT.—In the case of any year beginning after 2016, each of the dollar amounts in subparagraph (B)(iii) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2015' for 'calendar year 1992' in subparagraph (B) thereof.

If any dollar amount increased under the preceding sentence is not a multiple of $50, such dollar amount shall be rounded to the next lowest multiple of $50.

"(3) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means any employee of an eligible employer, except that the terms of the arrangement may exclude from consideration employees described in any clause of section 105(h)(3)(B) (applied by substituting '90 days' for '3 years' in clause (i) thereof).

"(B) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an employer that—

"(i) is not an applicable large employer as defined in section 4980H(c)(2), and

"(ii) does not offer a group health plan to any of its employees.

"(C) PERMITTED BENEFIT.—The term 'permitted benefit' means, with respect to any eligible employee, the maximum dollar amount of payments and reimbursements which may be made under the terms of the qualified small employer health reimbursement arrangement for the year with respect to such employee.

"(4) NOTICE.—

"(A) IN GENERAL.—An employer funding a qualified small employer health reimbursement arrangement for any year shall, not later than 90 days before the beginning of such year (or, in the case of an employee who is not eligible to participate in the arrangement as of the beginning of such year, the date on which such employee is first so eligible), provide a written notice to each eligible employee which includes the information described in subparagraph (B).

"(B) CONTENTS OF NOTICE.—The notice required under subparagraph (A) shall include each of the following:

"(i) A statement of the amount which would be such eligible employee's permitted benefit under the arrangement for the year.

"(ii) A statement that the eligible employee should provide the information described in clause (i) to any health insurance exchange to which the employee applies for advance payment of the premium assistance tax credit.

"(iii) A statement that if the employee is not covered under minimum essential coverage for any month the employee may be subject to tax under section 5000A for such month and reimbursements under the arrangement may be includible in gross income.".

(2) LIMITATION ON EXCLUSION FROM GROSS INCOME.—Section 106 of such Code is amended by adding at the end the following:

"(g) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENT.—For purposes of this section and section 105, payments or reimbursements from a qualified small employer health reimbursement arrangement (as defined in section 9831(d)) of an individual for medical care (as defined in section 213(d)) shall not be treated as paid or reimbursed under employer-provided coverage for medical expenses under an accident or health plan if for the month in which such medical care is provided the individual does not have minimum essential coverage (within the meaning of section 5000A(f)).".

(3) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Section 36B(c) of such Code is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULES FOR QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.—

"(A) IN GENERAL.—The term 'coverage month' shall not include any month with respect to an employee (or any spouse or dependent of such employee) if for such month the employee is provided a qualified small employer health reimbursement arrangement which constitutes affordable coverage.

"(B) DENIAL OF DOUBLE BENEFIT.—In the case of any employee who is provided a qualified small employer health reimbursement arrangement for any coverage month (determined without regard to subparagraph (A)), the credit otherwise allowable under subsection (a) to the taxpayer for such month shall be reduced (but not below zero) by the amount described in subparagraph (C)(i)(II) for such month.

"(C) AFFORDABLE COVERAGE.—For purposes of subparagraph (A), a qualified small employer health reimbursement arrangement shall be treated as constituting affordable coverage for a month if—

"(i) the excess of—

"(I) the amount that would be paid by the employee as the premium for such month for self-only coverage under the second lowest cost silver plan offered in the relevant individual health insurance market, over

"(II) 1/12 of the employee's permitted benefit (as defined in section 9831(d)(3)(C)) under such arrangement, does not exceed—

"(ii) 1/12 of 9.5 percent of the employee's household income.

"(D) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENT.—For purposes of this paragraph, the term 'qualified small employer health reimbursement arrangement' has the meaning given such term by section 9831(d)(2).

"(E) COVERAGE FOR LESS THAN ENTIRE YEAR.—In the case of an employee who is provided a qualified small employer health reimbursement arrangement for less than an entire year, subparagraph (C)(i)(II) shall be applied by substituting 'the number of months during the year for which such arrangement was provided' for '12'.

"(F) INDEXING.—In the case of plan years beginning in any calendar year after 2014, the Secretary shall adjust the 9.5 percent amount under subparagraph (C)(ii) in the same manner as the percentages are adjusted under subsection (b)(3)(A)(ii).".

(4) APPLICATION OF EXCISE TAX ON HIGH COST EMPLOYER-SPONSORED HEALTH COVERAGE.—

(A) IN GENERAL.—Section 4980I(f)(4) of such Code is amended by adding at the end the following: "Section 9831(d)(1) shall not apply for purposes of this section.".

(B) DETERMINATION OF COST OF COVERAGE.—Section 4980I(d)(2) of such Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.—In the case of applicable employer-sponsored coverage consisting of coverage under any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2)), the cost of coverage shall be equal to the amount described in section 6051(a)(15).".

(5) ENFORCEMENT OF NOTICE REQUIREMENT.—Section 6652 of such Code is amended by adding at the end the following new subsection:

"(o) FAILURE TO PROVIDE NOTICES WITH RESPECT TO QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS.—In the case of each failure to provide a written notice as required by section 9831(d)(4), unless it is shown that such failure is due to reasonable cause and not willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written notice, an amount equal to $50 per employee per incident of failure to provide such notice, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $2,500.".

(6) REPORTING.—

(A) W–2 REPORTING.—Section 6051(a) of such Code is amended by striking "and" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ", and", and by inserting after paragraph (14) the following new paragraph:

"(15) the total amount of permitted benefit (as defined in section 9831(d)(3)(C)) for the year under a qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2)) with respect to the employee.".

(B) INFORMATION REQUIRED TO BE PROVIDED BY EXCHANGE SUBSIDY APPLICANTS.—Section 1411(b)(3) of the Patient Protection and Affordable Care Act is amended

by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) CERTAIN INDIVIDUAL HEALTH INSURANCE POLICIES OBTAINED THROUGH SMALL EMPLOYERS.—The amount of the enrollee's permitted benefit (as defined in section 9831(d)(3)(C) of the Internal Revenue Code of 1986) under a qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of such Code).".

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to years beginning after December 31, 2016.

(B) TRANSITION RELIEF.—The relief under Treasury Notice 2015–17 shall be treated as applying to any plan year beginning on or before December 31, 2016.

(C) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 2016.

(D) EMPLOYEE NOTICE.—

(i) IN GENERAL.—The amendments made by paragraph (5) shall apply to notices with respect to years beginning after December 31, 2016.

(ii) TRANSITION RELIEF.—For purposes of section 6652(o) of the Internal Revenue Code of 1986 (as added by this Act), a person shall not be treated as failing to provide a written notice as required by section 9831(d)(4) of such Code if such notice is so provided not later than 90 days after the date of the enactment of this Act.

(E) W–2 REPORTING.—The amendments made by paragraph (6)(A) shall apply to calendar years beginning after December 31, 2016.

(F) INFORMATION PROVIDED BY EXCHANGE SUBSIDY APPLICANTS.—

(i) IN GENERAL.—The amendments made by paragraph (6)(B) shall apply to applications for enrollment made after December 31, 2016.

(ii) VERIFICATION.—Verification under section 1411 of the Patient Protection and Affordable Care Act of information provided under section 1411(b)(3)(B) of such Act shall apply with respect to months beginning after October 2016.

(iii) TRANSITIONAL RELIEF.—In the case of an application for enrollment under section 1411(b) of the Patient Protection and Affordable Care Act made before April 1, 2017, the requirement of section 1411(b)(3)(B) of such Act shall be treated as met if the information described therein is provided not later than 30 days after the date on which the applicant receives the notice described in section 9831(d)(4) of the Internal Revenue Code of 1986.

(8) SUBSTANTIATION REQUIREMENTS.—The Secretary of the Treasury (or his designee) may issue substantiation requirements as necessary to carry out this subsection.

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 733(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191b(a)(1)) is amended by adding at the end the following: "Such term shall not include any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of the Internal Revenue Code of 1986).".

(2) EXCEPTION FROM CONTINUATION COVERAGE REQUIREMENTS, ETC.—Section 607(1) of such Act (29 U.S.C. 1167(1)) is amended by adding at the end the following: "Such term shall not include any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of the Internal Revenue Code of 1986).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2016.

(c) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—

(1) IN GENERAL.—Section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1)) is amended by adding at the end the following: "Except for purposes of part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.), such term shall not include any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of the Internal Revenue Code of 1986).".

(2) EXCEPTION FROM CONTINUATION COVERAGE REQUIREMENTS.—Section 2208(1) of the Public Health Service Act (42 U.S.C. 300bb–8(1)) is amended by adding at the end the following: "Such term shall not include any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) of the Internal Revenue Code of 1986).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2016.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

Dave Yost • Auditor of State

Bulletin 2018-001

Auditor of State Bulletin

Date Issued: **April 26, 2018**

TO: **City Auditors and Finance Directors**
County Auditors and Fiscal Officers
School District Treasurers
Education Service Center Treasurers
Community School Fiscal Officers
Independent Public Accountants

FROM: **Dave Yost**
Ohio Auditor of State

SUBJECT: **Estimating Historical Costs of Capital Assets Using the Consumer Price Index**

Summary

Political subdivisions reporting in accordance with Generally Accepted Accounting Principles may have to calculate the historical cost of a capital asset. Listed below is the consumer price index (CPI) for years ranging from 1935 to 2017 that may be used for such calculations. Please note that the base year of the index is "1967" (at 100.0). This should not be confused with the consumer price index used for computing the change in compensation for a variety of local government officials which uses "1982" as its base year.

The formula to compute the estimated historical cost of an asset using the CPI is as follows:

Estimated Current Cost	x	**Index Rate for Estimated Year of Acquisition**	÷	**Index Rate for Current Year**	=	**Estimate Historical Cost**

Example: The estimated or actual year of acquisition of an asset is 1950. The purchase price of the same asset in 2017 is $91,500. The estimated historical cost would be computed as follows:

$91,500 × 72.1 ÷ 734.3 = $8,984

CONSUMER PRICE INDEX

2017	734.3	1989	371.3	1961	89.6
2016	719.0	1988	354.3	1960	88.7
2015	710.0	1987	340.4	1959	87.3
2014	709.2	1986	328.4	1958	86.6
2013	697.8	1985	322.2	1957	84.3
2012	687.8	1984	311.1	1956	81.4
2011	673.8	1983	298.4	1955	80.2
2010	653.2	1982	289.1	1954	80.5
2009	642.7	1981	272.4	1953	80.1
2008	644.9	1980	246.8	1952	79.5
2007	621.1	1979	217.4	1951	77.8
2006	603.9	1978	195.4	1950	72.1
2005	585.0	1977	181.5	1949	71.4
2004	565.8	1976	170.5	1948	72.1
2003	551.1	1975	161.2	1947	66.9
2002	538.8	1974	147.7	1946	58.5
2001	530.4	1973	133.1	1945	53.9
2000	515.8	1972	125.3	1944	52.7
1999	499.0	1971	121.3	1943	51.8
1998	488.3	1970	116.3	1942	48.8
1997	480.8	1969	109.8	1941	44.1
1996	469.9	1968	104.2	1940	42.0
1995	456.5	1967	100.0	1939	41.6
1994	444.0	1966	97.2	1938	42.2
1993	432.7	1965	94.5	1937	43.0
1992	420.3	1964	92.9	1936	41.5
1991	408.0	1963	91.7	1935	41.1
1990	391.4	1962	90.6		

Additional information can be obtained from the Bureau of Labor Statistics at http://stats.bls.gov.

If you have any questions regarding the information in this Bulletin, please contact the Local Government Services staff of the State Auditor's Office at (800) 345-2519.

Dave Yost
Ohio Auditor of State

Dave Yost · Auditor of State

Bulletin 2018-002

Auditor of State Bulletin

DATE ISSUED: **September 19, 2018**

TO: **All Fiscal Officers and Independent Public Accountants**

FROM: **Dave Yost**, **Auditor of State**

SUBJECT: **Governmental Accounting Standards Board Statement No. 75 – Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions**

Background Information

Governmental Accounting Standards Board (GASB) Statement No. 75, "Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions," includes guidance for reporting other postemployment benefits (OPEB) liabilities. GASB 75 addresses accounting for defined benefit and defined contribution OPEB plans.

The five major retirement systems in Ohio include Ohio Public Employees Retirement System (OPERS), Ohio Police & Fire Pension Fund (OP&F), State Teachers Retirement System of Ohio (STRS), School Employees Retirement System of Ohio (SERS) and the Ohio Highway Patrol Retirement System (HPRS). These retirement systems provide pension benefits as well as OPEB benefits. The pension benefits were addressed in Bulletin 2015-006 – *Accounting and Financial Reporting for Pensions*. The focus of this bulletin is the OPEB benefits provided through the retirement systems. HPRS is a single-employer retirement plan while the remaining plans are multiple-employer plans. Local government employers contribute to OPERS, OP&F, STRS and SERS. The OPEB plans that are offered by these four retirement systems are defined benefit, cost-sharing plans. The focus of this bulletin will be defined benefit, cost-sharing plans. Guidance related to OPEB plans offered through local governments, including defined contribution plans, will be discussed later in this bulletin.

The GASB issued an implementation guide to supplement the guidance found in GASB 75. The Implementation Guide is organized in a question and answer format. This bulletin references specific questions from the GASB 75 Implementation Guide, 2017-3 (IG). The guidance contained in the implementation guide also has been incorporated into the GASB codification. These references have also been included.

The requirements of this Statement apply to all Ohio state and local governments that prepare GAAP (Generally Accepted Accounting Principles) Statements, including those with a GAAP reporting requirement per OAC 117-02-03(B). Some other governments may be subject to GAAP, such as through a debt covenant. GASB 75 is effective for financial statements for periods beginning after June 15, 2017. Meaning, school districts and other governments with a June 30 fiscal year end must apply GASB 75 to their June 30, 2018, GAAP financial statements; and governments with a December 31 fiscal year end must apply it to their December 31, 2018 GAAP financial statements.

Comparison to GASB 45

GASB 75 replaces much of the guidance found in GASB Statement No. 45, "Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions." GASB 45 focused on a funding approach, and recognized a liability on both the accrual basis and modified accrual basis for any unpaid contractually required contributions.

GASB 75 focuses on an earnings approach for recognizing a liability on an accrual basis as OPEB are earned by employees. GASB 75 also recognizes a liability for payables to a defined benefit OPEB plan on both the accrual basis and modified accrual basis.

Under GASB 75, an intergovernmental payable will continue to be reported for any unpaid contractually required contributions at year end on both the accrual basis and modified accrual basis of accounting. On the "full-accrual" basis, governments will also report a net OPEB liability. A net OPEB liability will be recognized on the modified accrual basis of accounting to the extent payments have matured – that is, benefit payments are due and payable and the OPEB plan's fiduciary net position is not sufficient for payment of these benefits. Currently, no Ohio retirement system has net OPEB liabilities requiring recognition on the modified accrual basis.

Calculating the Net OPEB Liability (NOL)

The NOL reported on the statement of net position represents a liability to employees for OPEB. OPEB are a component of exchange transactions-–between an employer and its employees—of salaries and benefits for employee services. OPEB are provided to an employee—on a deferred-payment basis—as part of the total compensation package offered by an employer for employee services each financial period. The obligation to sacrifice resources for OPEB is a present obligation because it was created as a result of employment exchanges that already have occurred.

The NOL represents the government's *proportionate share* of the actuarial present value of projected benefit payments attributable to past periods of service, net of the OPEB plan's fiduciary net position. The NOL calculation is dependent on critical long-term variables, including estimated average life expectancies, earnings on investments, cost of living adjustments, and others. While these estimates use the best information available, unknowable future events require adjusting this estimate annually.

Selecting a measurement date

The NOL is to be measured as of a date (*measurement date*) no earlier than the end of the employer's *prior* fiscal year, consistently applied from period to period. This determination is made by the employer.

Typically, a local government's fiscal year end is the same as the fiscal year end of the OPEB plan. In this case, the local government can report its NOL as of their current year end or as of the prior fiscal year end. (IG 4.175, codified as P50 .731-5) Once the measurement date is determined, it is to be consistently applied.

If a government participates in two separate OPEB plans, the employer is not required to use the same measurement date for each net OPEB liability. (IG 4.176 / P50 .731-6)

Example: Assume a city contributes to OPERS. The city's and OPERS' fiscal years end December 31. For its 2018 financial statements, the city can elect to use OPERS' NOL measured as of December 31, 2018 or 2017.

Because OPERS' 2018 audited financial statements and schedules of OPEB amounts might not be available in time to meet the city's 150-day filing requirement (ORC 117.38), the city may use the NOL from OPERS' 2017 financial statements and schedules of OPEB amounts.

Proportionate share - The proportionate share is a measure of the proportionate relationship of the employer to all employers within the OPEB plan. This percentage is typically based on employer contributions and will be calculated by the OPEB plan.

Collective net OPEB liability - The collective net OPEB liability is the NOL for benefits provided through a cost-sharing plan. This amount is measured as the portion of the actuarial present value of projected benefit payments that is attributed to past periods of employee service, net of the OPEB plan's fiduciary net positon. The net OPEB liability represents the liability of employers to employees for benefits provided through a defined benefit OPEB plan. This amount will be provided by the retirement systems.

GASB 75 has specific requirements which the OPEB plan follows and which relate to determining the OPEB liability, including the actuarial valuation. These requirements address the timing and frequency of the actuarial valuation, the selection of assumptions, the projection of benefit payments, the discount rate, and the attribution of the actuarial present value of projected benefit payments to periods. Certain data maintained by the OPEB plan is used in this calculation process. This data includes elements such as, birth date, hire date, gender and marital status and is collectively referred to as census data. This census data is subject to the OPEB plan's audit.

A local government's NOL is calculated by multiplying the OPEB plan's collective net OPEB liability by the local government's proportionate share percentage. If the local government reports proprietary or fiduciary funds, consideration should be given to NCGA Statement 1, paragraph 42, which requires that long-term liabilities that are "directly related to and expected to be paid from" those funds be reported in the statement of net position or statement of fiduciary net position, respectively. (IG 4.173 / P50 .731-2)

To allocate the NOL between governmental activities and proprietary or fiduciary funds, a method similar to the allocation made by the OPEB plan (based on contributions) may be used or any other reasonable method may be utilized.

OPEB expense and deferred inflows/outflows - OPEB expense and/or deferred inflows/outflows are affected by changes in the collective net OPEB liability, items related to the calculation of the proportionate share and contributions made subsequent to the measurement date.

Changes in the collective net OPEB liability should be included in collective OPEB expense, except for the following which are components of deferred inflows/outflows:

1. Difference between expected and actual experience in the measurement of the total OPEB liability. *
2. Changes of assumptions *
3. Net difference between projected and actual earning on OPEB plan investments. **

*Amortized beginning in the current period over the average of the expected remaining service life of all employees that are provided with OPEB determined as of the beginning of the measurement period. The expected remaining service life will be provided by the OPEB plan.

**Amortized over a five year period

Information to calculate items 1 through 3 will be provided by the retirement system.

Contributions to the OPEB plan from employers should not be included in collective OPEB expense.

Changes related to the calculation of the proportionate share include:

1. Change in the employer's proportion percentage*
2. Difference between the employer's contribution and the employer's proportional share of contributions. *

*Amortized beginning in the current period over the average of the expected remaining service life of all employees that are provided with OPEB determined as of the beginning of the measurement period. The expected remaining service life will be provided by the OPEB plan.

Items 1 and 2 may be reported net.

Contributions to a plan from the employer subsequent to the NOL measurement date and before the end of the employer's reporting period should be reported as a deferred outflow. For example, if an employer selects a measurement date one year *prior* to its current year end, it should report all contributions during the *current* year as deferred outflows. The contributions should be calculated on a GAAP basis, not a cash basis. (IG 4.196 / P50 .736-1)

Other than employer contributions subsequent to the measurement date, there is no restatement required for deferred inflows/outflows in the implementation year if the deferred inflows/outflows amounts are not available. However, the restatement note should indicate if it includes deferred inflows of resources or deferred outflows of resources. Also, the reason for not restating prior periods should be explained.

Special Funding Situations

Special funding situations are circumstances in which a nonemployer entity is legally responsible for making contributions directly to an OPEB plan that is used to provide OPEB to the employees of another entity or entities. This should not be a common situation for most Ohio local governments; however, special funding situations can be encountered in community schools.

Payments to STRS and SERS through a deduction from school foundation do not qualify as a special funding situation for the State of Ohio. Additional information related to special funding situations can be found in GASB 75 paragraphs 109 through 127 (GASB Cod. §P50.211 - .231).

Financial Statements

The employer's proportionate share of the collective net OPEB liability is not required to be displayed separately on the face of the financial statements; i.e. it is acceptable to include it with *liabilities due in more than one year*. However, for some governments, it will be a significant balance, and governments may prefer to display it separately on the face of the financial statements. Liabilities for net OPEB liabilities associated with different plans may be aggregated for display, and assets for net OPEB assets associated with different plans may be aggregated for display. However, aggregated OPEB assets and aggregated OPEB liabilities should be separately displayed. (IG 4.43 / P50 .705-1)

Sample financial statements are available on the Auditor of State's website at http://www.ohioauditor.gov/references/gasb75.html.

Note Disclosure

The note disclosure requirements for cost sharing employers are identified in GASB 75 paragraphs 89 through 96 (GASB Cod. §P50.189 - .196). The total of the employer's OPEB liabilities, OPEB assets, deferred outflows of resources and deferred inflows of resources related to OPEB, and OPEB expense/expenditure for the period associated with net OPEB liabilities should be disclosed if the total amounts are not otherwise identifiable from information presented in the financial statements. The notes should also include a description of the OPEB plan (GASB 75 ¶91 / Cod. §P50.191), information about the employer's proportionate share of the collective net OPEB liability (GASB 75 ¶92 - ¶94 / Cod. §P50.192 - .194), information about the OPEB Plan's fiduciary net position (GASB 75 ¶95 / Cod. §P50.195), as well as other information (GASB 75 ¶96 / Cod. §P50.196). These disclosure requirements are quite lengthy. Refer to the referenced GASB 75 / Codification paragraphs for the specific requirements.

In addition, the amount of payables to a defined benefit OPEB plan outstanding at the end of the reporting period, significant terms related to the payables, and a description of what gave rise to the payable should be included in the notes to the financial statements.

Note disclosure shells are available on the Auditor of State's website at http://www.ohioauditor.gov/references/gasb75.html. We believe these examples meet the requirements of Statement 75. However, each governmental employer is responsible for comparing their disclosure with the aforementioned paragraphs in GASB 75 to determine if their disclosure is complete and accurate.

Required Supplementary Information (RSI)

All cost-sharing employers need to present the following required supplementary information separately for each cost-sharing OPEB plan through which OPEB are provided. (GASB 75 ¶97 / Cod. §P50.197)

A 10 year schedule with amounts determined as of the measurement date of the collective net OPEB liability:

- The employer's proportion (percentage) of the collective net OPEB liability
- The employer's proportionate share (amount) of the collective net OPEB liability
- The employer's covered payroll/covered employee payroll
- The employer's proportionate share (amount) of the collective net OPEB liability as a percentage of the employer's covered-employee payroll
- The OPEB plan's fiduciary net position as a percentage of the total OPEB liability

If the contribution requirements of the employer are statutorily or contractually established, a 10 year schedule presenting the following with amounts determined as of the employer's most recent fiscal year-end:

- The statutorily or contractually required employer contribution
- The amount of contributions recognized by the OPEB plan in relation to the statutorily or contractually required employer contribution
- The difference between the statutorily or contractually required employer contribution and the amount of contributions recognized by the OPEB plan in relation to the statutorily or contractually required employer contribution
- The employer's covered payroll/covered employee payroll
- The amount of contributions recognized by the OPEB plan in relation to the statutorily or contractually required employer contribution as a percentage of the employer's covered-employee payroll

Information contained in RSI schedules will be different if the employer has a special funding situation.

Information about factors that significantly affect trends in the amounts presented in the RSI schedules should be presented as notes to the schedules.

If contributions to the OPEB plan are based on a measure of pay, the covered payroll presented in the RSI schedules is the payroll on which contributions to the OPEB plan are based. If the contributions to the OPEB plan are not based on a measure of pay, the RSI schedules should present covered- employee payroll, which is the total payroll of covered employees. (GASB 85 ¶14 / Cod. §P50.197)

The RSI schedules should not include information that is not measured in accordance with GASB 75 requirements.

The information for all periods for the 10 year schedules that are required to be presented as RSI may not be available initially. In these cases, during the transition period, that information should be presented for as many years as are available.

Sample RSI schedules are available on the Auditor of State's website at http://www.ohioauditor.gov/references/gasb75.html.

Transition

Governments should restate beginning net position. For example, a school district's June 30, 2018, statement of activities should reduce its previously-reported June 30, 2017, net position by the NOL applicable to June 30, 2017. (This would be the NOL computed as of June 30, 2016, if the school district selected a measurement date one year prior to its fiscal year end.)

Beginning net position should also be restated for any contributions made subsequent to the measurement date. As mentioned above, for the remaining deferred inflows/outflows, GASB 75 encourages, but does not require governments to allocate its beginning NOL between net position and deferred inflows/outflows.

Also refer to disclosure requirements related to the restatement of deferred inflows/outflows referenced in the discussion of the collective net OPEB liability above.

Defined Contribution Plans

On an accrual basis of accounting, OPEB expense related to defined contribution plans should equal the amount of contributions attributable to employees' services in the period and changes in the OPEB liability equal to the difference between the amount recognized as OPEB expense and amounts paid by the employer to the OPEB plan.

On a modified accrual basis of accounting, OPEB expenditures should be equal to amounts paid by the employer to the OPEB plan and the change between the beginning and ending balances of amounts normally expected to be liquidated with expendable available financial resources. This amount represents the extent that contributions are due and payable pursuant to legal requirements, including contractual arrangements.

GASB 75 paragraph 233 identifies the disclosure requirements related to defined contribution plans.

Other OPEB Plans

OPEB include not only postemployment healthcare, but also include other postemployment benefits such as death benefits, life insurance, disability, and long-term care when provided separately from a pension plan. Certain local governments in Ohio have their own OPEB plans that will need to be evaluated to determine if they meet the criteria for reporting under GASB 74/75.

Applicability to Non-GAAP Entities

Governments not *statutorily* required to prepare GAAP statements that prepare Other Comprehensive Basis of Accounting (OCBOA) or Regulatory basis financial statements will not present their NOL on their financial statements and need not disclose their NOL in the notes. However, governments *statutorily* required to prepare GAAP statements, but that choose to prepare OCBOA or regulatory statements instead, will need to disclose OPEB information in their notes.

A sample OCBOA OPEB note for governments required to prepare GAAP statements but choose to prepare OCBOA statements is available on our website at: http://www.ohioauditor.gov/references/gasb75.html.

Information Available from the Retirement Systems

The *AICPA Audit and Accounting Guide: State and Local Governments* (the Guide) provides guidance regarding two schedules that are prepared by the retirement system for the OPEB plan and audited by the plan auditor. These audited schedules will be available through the retirement systems and through the audit search function on the Auditor of State website. The schedules will contain much of the information necessary to implement GASB 75.

Audit Considerations - Employer Responsibilities

The majority of OPEB provided to government employees in Ohio are postemployment health care administered by the retirement systems. While the retirement systems will provide much of the information needed to report the Net OPEB Liability, deferred inflows of resources, deferred outflows of resources, and OPEB expense in their audited Schedule of Employer Allocations and Schedule of OPEB Amounts, employers will have to calculate some of the employer specific deferred amounts and related amortizations as described in the *OPEB expense and deferred inflows/outflows* section of this bulletin. Employers have various responsibilities related to the implementation of GASB 75. Among these responsibilities are:

- Determine an appropriate measurement date as described above.
- Report complete and accurate census data to the retirement systems.
- Periodically reconcile contributions sent to the plan with payroll data.
- Evaluate the appropriateness of the information used to record financial statement amounts.
- Evaluate whether the retirement system auditor's report on the *Schedule of Employer Allocations* and *Schedule of OPEB Amounts* is adequate and appropriate for employer purposes.
- Verify the employer contribution amounts reflected in the S*chedule of Employer Allocations* agree with the employer's contribution records.
- Recalculate the allocation percentage.
- Ensure all of the employer codes associated with the government are included in the calculations.
- Recalculate the allocation of OPEB amounts based on the allocation percentage of the employer.
- Maintain all amortization schedules for deferred inflows/outflows and OPEB expense amounts.

Additionally, employers will need to provide management's representations to their auditors regarding the completeness and accuracy of the data provided to the retirement systems as well as the appropriateness of the OPEB amounts reported in the financial statements. These representations should be included in management's representation letter the auditors will obtain at the conclusion of the audit.

Audit Considerations - Employer Auditor Responsibilities

Employer auditors are responsible for opining on the financial statements of the employers. As part of the audit process, the employer auditors must obtain sufficient, appropriate audit evidence to reduce the risk of material misstatement to an acceptably low level. Since much of the information needed to calculate the proportionate share, Net OPEB Liability, deferred inflows, deferred outflows and OPEB expense is only available from the retirement systems, the retirement systems will be preparing Schedules of Employer Allocations and OPEB Amounts (the schedules) to provide the information to the employers. The retirement system auditors will opine on these schedules in accordance with AU-C section 805.

Actuaries develop the estimates of the Net OPEB Liability, deferred inflows, deferred outflows and OPEB expense based on financial data and elements of non-financial data known as census data as discussed in the *Calculating the Net OPEB Liability* section of this bulletin. Since the actuarial valuations are based, in part, on this data and the schedules are prepared based on the actuarial valuations, the retirement system auditors must gain assurances that the census data provided to the actuary is accurate and complete before they can opine on the schedules. To gain these assurances, the retirement system auditors select samples of employers for census data testing, and identify the elements of census data for which assurances are required. Since the implementation of GASB 68 for pensions, the AOS has performed examination engagements over the census data for each of the employers selected by the retirement system auditors and reported the results to the retirement system auditors. The retirement system auditors use these examination reports to provide assurances that the census data reported to the retirement system was complete and accurate. With the implementation of GASB 75, these census data examination engagements are modified as necessary to provide any additional assurances necessary to support the OPEB amounts in addition to the pension amounts. For future years, retirement system auditors will continue to select a sample of employers for census data testing. The AOS and/or IPAs will perform examinations on the census data elements and report the results to the retirement system auditors to provide the necessary assurances.

Employer auditors will generally use the retirement system auditor's reports on the retirement system's financial statements and the audited Schedule of Employer Allocations and Schedule of OPEB Amounts as audit evidence that the OPEB amounts allocated to the employer and included in the employer's financial statements are not materially misstated. Employer auditors have various responsibilities related to using this audited information from the retirement systems including:

- Evaluate controls over reporting contributions to the plan.
- Test the contributions to the retirement systems.
- Ensure the employer contribution amounts used to calculate the allocation percentage agrees with the employer's records.
- Recalculate the amounts provided in the audited schedules.
- Test all amortization schedules.
- Test the information reported in the notes to the financial statements to ensure all of the required disclosures are included.
- Review the required supplementary information to ensure it includes the required elements.
- Auditors are also responsible for evaluating whether the retirement system auditor's report on the Schedules of Employer Allocations and OPEB Amounts (the schedules) provide sufficient, appropriate audit evidence.

For AOS Audits: The Center for Audit Excellence (CFAE) will document and evaluate centrally:

- The professional qualifications of the actuary used by the retirement systems;
- Whether the actuarial valuation date is appropriate;
- Whether the methods and assumptions used by the actuary are in accordance with the requirements of GASB 75;
- The professional competence and independence of the retirement system auditors; and,
- Whether the retirement system auditor's report on the schedules is adequate to provide the sufficient and appropriate audit evidence.

The CFAE will provide a memo to AOS auditors documenting whether they can rely on the audited employer schedules.

For IPA Audits: IPAs will be responsible for their own evaluation of the retirement system auditor's report on the schedules.

Additional Resources Available on the Auditor of State's Website

The Auditor of State's Office has additional resources related to GASB 75's implementation available on our website at https://ohioauditor.gov/references/gasb75.html. The resources include sample financial statements, Management's Discussion & Analysis, and notes for each of the OPEB plans. We will also have a FAQ document available. These resources will be updated as additional information becomes available.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact Local Government Services at the Auditor of State's Office at (800) 345-2519.

Dave Yost
Auditor of State

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State Bulletin
2019-001

Date Issued: **April 30, 2019**

TO: **County Auditors**
County Clerks of Courts
County Commissioners
County Coroners
County Engineers
County Prosecuting Attorneys
County Recorders
County Sheriffs
County Treasurers
Judges
Boards of Elections Members

FROM: **Keith Faber**
Ohio Auditor of State

SUBJECT: **Compensation Increase Legislation pertaining to Nonjudicial State, County, and Township Elected Officials, and Boards of Elections Members (Senate Bill Number 296)**

Attached is a copy of the County Commissioners Association of Ohio Advisory Bulletin 2019-02 outlining the various compensation increases for county elected officials set forth in Senate Bill 296, which was passed by the General Assembly as a public benefits bill and took effect on December 27, 2018. The information in the CCAO's Advisory Bulletin has been reviewed by the Auditor of State's Office, which concurs with the substantive content.

This Bulletin makes note of the effect of the 2020 decennial census on county officials' compensation, as well as several points relating to compensation increases discussed in 2016 OAG 008, regarding changes in the compensation of elected officials which become effective during a current term in office.

Decennial Census

The Auditor of State's Office directs attention to page 3 of the CCAO bulletin regarding New Census Numbers in 2021. County compensation classes, currently based on 2010 census figures, should be used until the 2020 decennial data is available. The Attorney General has opined that the new population figures, and therefore county compensation classes, take effect the date that the Governor receives the data. OAG 82-047.

If the decennial census reveals an increase in population that causes the elected official to be eligible for a salary in a higher pay class, the individual can receive the higher salary in-term.

However, if a population decrease places an elected official in a lower pay class, such official is to remain in their current pay class for the remainder of his/her current term of office; it cannot be reduced in-term. R.C. 325.22. The official shall be paid at the lower salary to correspond with the 2020 census data at the start of the next term.

Timing of Compensation Increases

Article II, Section 20 of the Ohio Constitution generally prohibits the compensation of an elected official being modified during the elected official's current term of office. What has been less clear is whether a person appointed to a vacancy in a county elected office (due to the death, resignation, or retirement of the incumbent thereby commences a "new term of office." And if so, whether the appointee is entitled to the benefit of an increase in compensation that was enacted prior to his/her appointment, but after the commencement of his/her predecessor's term of office.

The Attorney General, in 2016 OAG 008, opines that "term in office" attaches to the person who is holding office, and not the length of time established by law for a single "term" of a particular public office. Accordingly, in conjunction with 1969 OAG 194, it is the opinion of the Attorney General that an individual who fills a vacancy in an elected position is entitled to a rate of compensation in effect at the time he or she commences his/her term of office, rather than the rate in effect when the appointee's predecessor began his/her term of office. However, the Attorney General, in 2016 OAG 008, makes the following distinction: while a person appointed to a vacant position is entitled to the rate of compensation in effect at the time he/she commences his/her term of office, this is true only if the appointee and the incumbent officeholder are not the same person. Thus, an officeholder may not receive an increase in compensation by simply resigning and then being reappointed to the same office in the same term. Therefore, commissioners and other county elected officials in office prior to December 27, 2018, will not be able to receive the pay adjustments included in S.B. 296 until their next term of office begins after December 27, 2018.

Members of the judiciary may accept in-term raises, as can board of elections members, pursuant to R.C. 3501.12. These officials are also entitled to receive cost of living adjustments and do not have to wait for reappointment.

Prorating Annual Salaries for Elected County Officeholders

2016 OAG 008 then addresses whether a county treasurer and a county commissioner who take office after January 1, 2017, shall receive the full amount or a prorated amount of their annual statutory compensation. Generally, salaries are set at an annual rate. In referencing 1990 OAG 023, 2016 OAG 008 reiterates that "annual compensation" is to be used with the words "calendar year" which designates the period of annual compensation from January 1 through December 31. Thus, when a county officer's term includes only part of a particular calendar year, the officer is entitled to a prorated portion of annual compensation fixed for that particular year.[1] More specifically, a prorated annual salary will only apply when an officeholder begins his/her term of office after the first day of the calendar year (January 1) or vacates the term of office, by death, resignation, retirement, etc., prior to the last day of the calendar year (December 31).

In addition, when a new salary takes effect on the first day of an officeholder's new term of office, his/her compensation should be prorated from that day forward to reflect a daily rate of pay determined by the new annual salary.[2]

Questions about this bulletin may be directed to Cheryl Subler, CCAI 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 legaldivision@ohioauditor.gov or at (614) 752-8683.

Keith Faber
Ohio Auditor of State

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[1] For example, if a county sheriff's term began on January 2, 1989, and ended on January 4, 1993, the sheriff would be paid on a prorated basis from 364 days of service in 1989 and 4 days in 1993. *See* 2002 OAG 006.

[2] For example, if a county treasurer is elected to a term of office that begins on September 2, 2013, and ends on September 3, 2017, and who is reelected in November 2016 to a four-year term beginning September 4, 2017, the treasurer should receive a prorated portion of the annual compensation fixed for her county's population class for calendar year 2017 for the time she serves from January 1, 2017 through September 3, 2017. *Id.*

COUNTY ADVISORY BULLETIN
CAB
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Bulletin 2019-02 **February 2019**

PAY TABLES FOR COUNTY OFFICIALS
2018 - 2028

INTRODUCTION

Compensation adjustments for county commissioners along with other state and local elected and appointed officials was included in Amended Substitute Senate Bill 296 (132nd General Assembly). Specifically, the legislation provides salary increases and cost of living adjustments to state and county elected officials along with boards of elections members and township elected officials. The purpose of this County Advisory Bulletin (CAB) is to explain the compensation provisions in S.B. 296 that relate to county government.

BACKGROUND

Pay adjustments for elected and appointed officials have been much-discussed within the General Assembly in recent years. The last compensation adjustment for local officials occurred via House Bill 64 (131st General Assembly) in 2015. This legislation provided two years of five percent increases for county commissioners, auditors, clerks of courts, coroners, engineers, recorders, treasurers, board of elections members and township officials. Judges, prosecutors and sheriffs received four years of five percent raises in H.B. 64. Compensation for state officials was not addressed in the bill.

Following H.B. 64's enactment, momentum remained in the legislature to address state elected official compensation as well as to provide parity in increases across county offices and a cost of living adjustment (COLA). It was in Senate Bill 296 that these compensation adjustments were enacted.

Senate Bill 296 is a public benefits bill which provides enhanced death benefits and insurance access to the survivors of officers (law enforcement officers and firefighters) killed in the line of duty. It also serves as the legislative vehicle for the state and local official compensation adjustments described in this bulletin.

Following discussions between members in both houses of the General Assembly, a compensation package addressing state and local official compensation was amended into S.B. 296 in House Finance Committee. The bill passed the House and the Senate concurred with the

House's changes. Governor Kasich later vetoed the bill, but the House and Senate voted to override the governor's veto in the closing days of the 132nd General Assembly.

GENERAL CONCEPTS OF SENATE BILL 296 & COMPENSATION IN GENERAL

Annual Increases

The bill creates compensation parity for county elected officials by providing commissioners, auditors, clerks of courts, coroners, engineers, recorders and treasurers with two years of five percent increases taking place in calendar years 2019 and 2020. These two years of increases align these officials with judges, prosecutors, and sheriffs who received four years of increases in H.B. 64 (131st GA).

While the compensation increases are in statute for calendar years 2019 and 2020, Ohio Constitutional restrictions generally prevent non-judicial elected officials from accepting salary increases in-term. Current county officials must wait until their next term of office after the enabling legislation's effective date (Dec. 27, 2018) to accept their increases.

Readers should note that the salary increases received by judges, prosecutors and sheriffs in Calendar Year 2019 is via H.B. 64 (131st General Assembly), not S.B. 296.

Cost of Living Adjustments

In addition to the pay increases, commissioners, auditors, clerks of courts, coroners, engineers, recorders, and treasurers receive a COLA of 1.75 percent starting in 2021 and running through 2028. Prosecutors, judges and sheriffs receive a COLA of 1.75 percent in beginning in 2020 to run through 2028. Board of elections members generally will receive a 1.75 percent COLA from 2019 through 2028, with some exceptions.

Timing

There are important timing considerations to take into account when considering how S.B. 296 will impact the compensation of county officials.

An important provision of S.B. 296 is its effective date: Dec. 27, 2018. This is an important date to remember when considering how S.B. 296 may impact different elected officials.

The Ohio Constitution generally prohibits in-term compensation changes for non-judicial elected officials. For commissioners and other county elected officials (excluding judges and boards of elections members) in office prior to Dec. 27, 2018, they will not be able to receive the pay adjustments included in S.B. 296 until their next term of office begins after Dec. 27, 2018.

For example, for those commissioners taking office after Dec. 27, 2018 (e.g. the class elected in Nov. 2018), they will receive the five percent increase in 2019 and the second five percent in 2020 since they are taking office after the effective date of the legislation (Dec. 27, 2018). They will also begin to receive their first COLA starting in 2021 and second COLA in 2022. For those commissioners currently in-term (e.g. last elected in Nov. 2016), those commissioners will have to wait until their next term of office (Jan. 2021) to begin accepting their increased compensation from S.B. 296.

An example of how these changes will impact different commissioner classes can be found in Appendix A of this bulletin.

For members of the judiciary, the Ohio Constitution does not prohibit judges from accepting raises in-term, and thus, these individuals can receive the compensation changes as written in law.

For boards of elections members, ORC Section 3501.12 deems these individuals to be appointed and not elected, and therefore they are not subject to Section 20 of Article II of the Ohio Constitution. Thus, they are able to receive the COLA as written during those calendar years and do not have to wait for reappointment.

An important point to note regarding calculating public officials' salaries: 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 prorated.

Public Office Compensation Advisory Commission

The bill creates the Public Office Compensation Advisory Commission to create an annual report and recommendations on the compensation of officers whose salaries are fixed by the General Assembly, which includes county elected officials. The Commission is not authorized to change the compensation of any officeholders. The Commission's report and recommendations are non-binding.

The Commission consists of nine members; two appointed by the Governor, two by the Senate President, two by the Speaker of the House, one by the Senate Minority Leader, one by the House Minority Leader, and one by the Chief Justice of the Supreme Court. Members may not be state or local officeholders or employees or immediate family members of these individuals, a candidate for public office in the past twelve months, or a lobbyist.

New Census Numbers in 2021

County compensation classes are based on the decennial census figures. The 2010 census numbers should be used until the 2020 decennial data is available.

Sometime in early 2021 (likely March), Ohio will receive the certified results of the 2020 decennial census. While the Ohio Revised Code does not explicitly provide an effective date for the federal census numbers relative to county elected officials' compensation, Ohio Attorney General Opinion 82-047 has addressed this issue. The Attorney General Opinion specifies the new population figures are effective on the date the Governor receives the data. From that date forward, the 2020 census numbers should be used to calculate county officials' salaries. If a county successfully challenges its population count under the U.S. Census Count Question Resolution Program, the revised Census population count issued by the Bureau in response thereto constitutes the county's population for purposes of Chapter 325 (OAG 2003-014).

If the new population numbers result in an elected official being eligible for a salary in a "higher" pay class, such individual can move up and receive the higher salary in-term. However, the salary in the higher class will have to be prorated for the remainder of the 2021 calendar year. An official can only receive that portion of the calendar year salary prorated from the date the Governor receives the 2020 Census data for the remainder of calendar year 2021.

If the new population numbers place an elected official in a lower pay class, such official is to remain in his/her current pay class for the remainder of his/her current term of office. Ohio Revised Code Section 325.22 provides that an official's salary cannot be reduced during the remainder of his/her term of office on account of a decline in population of the county. However, upon commencement of a new term of office, such official would be paid at the lower salary to correspond with the 2020 census data

NON-JUDICIAL OFFICEHOLDERS COMPENSATION

Commissioners (ORC 325.10 & 325.18)

Table 1 reflects the salaries for commissioners in statute from Calendar Years 2018 - 2028.

Auditors (ORC 325.03, 325.18 & 5731.41)

Table 2 provides the salaries for auditors in statute from CY 2018 - CY 2028.

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 or the real estate assessment fund pursuant to Ohio Revised Code Section 5731.41.

Clerks of Courts (ORC 325.08, 325.18 & 2303.03)

Tables 3 through 13 provide the salaries for clerks of courts for CY 2018 - CY 2028. 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 14 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 15 shows the salaries for coroners in counties with a population of more than 175,000 who do not have a private medical practice, who thereby receive higher compensation.

ORC 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.

Coroners in counties of 175,001 or more in population who have elected to not engage in the private practice of medicine may, during the coroner's term of office, elect to engage in the private practice of medicine by notifying the board of commissioners in writing. The written notice shall state the date the coroner will commence private practice and must be provided to the board of commissioners at least 30 days prior to that date. On that date, the coroner's salary shall be reduced as provided in ORC 325.15.

Coroners serving counties of 175,001 or more in population and without private practice shall receive supplemental compensation of 50 percent of their annual compensation provided in ORC sections 325.15 and 325.18 provided that the following conditions are satisfied:

1. The office operates as a regional forensic pathology examination referral center, and the operation generates sufficient coroner's laboratory fund income that exceeds the fund's expenses and is sufficient to provide the supplemental compensation;
2. The coroner is a forensic pathologist certified by the American Board of Pathology; and
3. The coroner performs a minimum of 75 post-mortem examinations annually.

If the coroner does not satisfy the first or third criteria, the coroner may still receive supplemental compensation of 25 percent of the coroner's annual compensation for serving as a Board-certified forensic pathologist and performing the county's forensic examinations. The supplemental compensation is subject to commissioner approval.

Engineers (ORC 325.14 & 325.18)

Table 16 shows the salaries for engineers who maintain a private practice. Table 17 provides 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 16 and 17 of this bulletin, a county engineer may also receive compensation when he/she performs services as the county sanitary engineer. Also, 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, ORC 325.111 & 325.18)

Table 18 provides the salaries of prosecutors who have a private practice. Tables 19 through 29 show the salaries for prosecutors without a private practice, who thereby receive higher compensation.

These tables 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. As a result,

counties could be responsible for a portion of the state's share if the General Assembly does not appropriate adequate funds for the prosecuting attorney's compensation.

The state, through the Attorney General, is to reimburse counties no later than March 15 and September 15 each year.

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)

Tables 30 provides the recorders' salaries for Calendar Years 2018 - 2028.

Sheriffs (ORC 325.06 & 325.18)

Tables 31 - 41 display sheriffs' salaries for Calendar Years 2018 - 2028. 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 financially responsible for making up the state's share if the General Assembly did not appropriate enough money.

The state, through the Attorney General, is to reimburse counties no later than March 15th and September 15th each year. 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 42 provides the treasurers' salaries for Calendar Years 2018 - 2028.

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 allowed under the statute. 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 with a population of 70,001 or more. In counties where the population is less than 70,001, appropriations to the FOJ Fund are at the rate of 50 percent of the compensation specified 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

Senate Bill 296 provides judges with 1.75 percent COLA beginning in Calendar Year 2020 and continuing through Calendar Year 2028. These increases are 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 judges' 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 latest federal census. See Tables 43-45.

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 46.

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 47.

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 48.

Additional Compensation for Judges Designated as a Presiding and Administrative Judges in a Municipal Court or County Courts (ORC references are included in Table 34) See Tables 49 and 50.

County Optional Compensation for County Court Judges (ORC 1907.17)

In addition to the compensation of county court judges specified in Tables 48 and 50, the ORC 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 cannot 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. (OAG 70-142)

BOARDS OF ELECTIONS MEMBERS (ORC 3501.12)

Under S.B. 296, board of elections members generally will receive a 1.75 percent COLA in Calendar Years 2019 - 2028. Pursuant to ORC Section 3501.12, members of boards of elections are deemed to be appointed and not elected, and therefore not subject to Section 20 of Article II of the Ohio Constitution. Thus, they are able to receive the increases during those calendar years. See Table 51.

Two likely drafting oversights included in S.B. 296 impact the minimum and maximum compensation of boards of elections members. Under S.B. 296, the 1.75 percent COLA does not apply to the $6,000 minimum compensation floor. Also, the bill removes the maximum compensation cap of $24,095 for BOE members. See Table 52. Future corrective action in this area is anticipated.

RECAP

In 2019 and 2020, commissioners, auditors, clerks of courts, coroners, engineers, recorders, and treasurers will receive five percent raises. Beginning in 2021 and running through 2028, these elected officials will then receive a 1.75 percent COLA. Once again, it is important to remember that while these raises are provided in statute, non-judicial elected officeholders cannot accept these raises until beginning a new term after the effective date of the legislation – December 27, 2018. See Appendix A for examples.

In 2020 through 2028, judges, prosecutors, and sheriffs are to receive a 1.75 percent COLA. The judges' COLA will be paid by the state. Judges are able to accept in-term pay increases, which includes COLAs.

Boards of election members generally will receive a 1.75 percent COLA, with certain exclusions, beginning in 2019 and running through 2028, and counties should budget for them. Board members are able to receive their COLA as authorized by statute and do not have to wait for reappointment.

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 Adam Schwiebert, Policy Analyst, aschwiebert@ccao.org and Cheryl Subler, Managing Director of Policy, csubler@ccao.rg who were responsible for the preparation of this CAB.

Table 1: Commissioners

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
1	1-55,000	$48,974	$51,423	$53,994	$54,939	$55,900	$56,878	$57,873	$58,886	$59,917	$60,966	$62,033
2	55,001 - 95,000	61,215	64,276	67,490	68,671	69,873	71,096	72,340	73,606	74,894	76,205	77,539
3	95,001 - 200,000	72,346	75,963	79,761	81,157	82,577	84,022	85,492	86,988	88,510	90,059	91,635
4	200,001 - 400,000	84,866	89,109	93,565	95,202	96,868	98,563	100,288	102,043	103,829	105,646	107,495
5	400,001 - 1 million	96,000	100,800	105,840	107,692	109,577	111,495	113,446	115,431	117,451	119,506	121,597
6	Over 1 million	101,953	107,051	112,403	114,370	116,371	118,407	120,479	122,587	124,732	126,915	129,136

Table 2: Auditors*

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary
1	1-55,000	$64,091	$67,296	$70,660	$71,897
2	55,001 - 95,000	75,400	79,170	83,129	84,584
3	95,001 - 200,000	84,621	88,852	93,295	94,928
4	200,001 - 400,000	94,935	99,682	104,666	106,498
5	400,001 - 1 million	100,601	105,631	110,913	112,854
6	Over 1 million	103,618	108,799	114,239	116,238

CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
$73,155	$74,435	$75,738	$77,063	$78,412	$79,784	$81,180
86,064	87,570	89,102	90,661	92,248	93,862	95,505
96,589	98,279	99,999	101,749	103,530	105,342	107,185
108,362	110,258	112,188	114,151	116,149	118,182	120,250
114,829	116,839	118,884	120,964	123,081	125,235	127,427
118,272	120,342	122,448	124,591	126,771	128,989	131,246

*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 or the county real estate assessment fund pursuant to Ohio Revised Code Section 5731.41

Note: 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 prorated. (Attorney General Opinion 90-023)

Therefore, county auditors who are in-term as of December 27,2018, shall continue to receive the 2018 salary until their next term of office begins on March 11, 2019, at which point their 2019 calendar year salary shall be prorated for the remainder of 2019.

Tables 3-13: Clerks of Courts*

Table 3: Calendar Year 2018

Class Number	Population Range	CY 2018 Salary County Paid**	CY 2018 Salary State Paid***	CY 2018 Total Salary
1	1-55,000	$49,813	$6,227	$56,040
2	55,001 - 95,000	58,668	7,334	66,002
3	95,001 - 200,000	67,525	8,441	75,966
4	200,001 - 400,000	75,273	9,409	84,682
5	400,001 – 1 million	80,807	10,101	90,908
6	Over 1 million	83,636	10,455	94,091

Table 4: Calendar Year 2019

Class Number	Population Range	CY 2019 Salary County Paid**	CY 2019 Salary State Paid***	CY 2019 Total Salary
1	1-55,000	$52,304	$6,538	$58,842
2	55,001 - 95,000	61,601	$7,700	69,301
3	95,001 - 200,000	70,901	$8,863	79,764
4	200,001 - 400,000	79,037	$9,880	88,917
5	400,001 – 1 million	84,847	$10,606	95,453
6	Over 1 million	87,818	$10,977	98,795

Table 5: Calendar Year 2020

Class Number	Population Range	CY 2020 Salary County Paid**	CY 2020 Salary State Paid***	CY 2020 Total Salary
1	1-55,000	$54,919	$6,865	$61,784
2	55,001 - 95,000	64,681	$8,085	72,766
3	95,001 - 200,000	74,446	$9,306	83,752
4	200,001 - 400,000	82,988	$10,374	93,362
5	400,001 – 1 million	89,090	$11,136	100,226
6	Over 1 million	92,209	$11,526	103,735

Table 6: Calendar Year 2021

Class Number	Population Range	CY 2021 Salary County Paid**	CY 2021 Salary State Paid***	CY 2021 Total Salary
1	1-55,000	$55,880	$6,985	$62,865
2	55,001 - 95,000	65,813	$8,227	74,040
3	95,001 - 200,000	75,749	$9,469	85,218
4	200,001 - 400,000	84,440	$10,555	94,995
5	400,001 – 1 million	90,649	$11,331	101,980
6	Over 1 million	93,823	$11,728	105,551

Table 7: Calendar Year 2022

Class Number	Population Range	CY 2022 Salary County Paid**	CY 2022 Salary State Paid***	CY 2022 Total Salary
1	1-55,000	$56,858	$7,107	$63,965
2	55,001 - 95,000	66,965	$8,371	75,336
3	95,001 - 200,000	77,075	$9,634	86,709
4	200,001 - 400,000	85,918	$10,740	96,658
5	400,001 – 1 million	92,235	$11,529	103,764
6	Over 1 million	95,465	$11,933	107,398

Table 8: Calendar Year 2023

Class Number	Population Range	CY 2023 Salary County Paid**	CY 2023 Salary State Paid***	CY 2023 Total Salary
1	1-55,000	$57,853	$7,232	$65,085
2	55,001 - 95,000	68,137	$8,517	76,654
3	95,001 - 200,000	78,424	$9,803	88,227
4	200,001 - 400,000	87,422	$10,928	98,350
5	400,001 – 1 million	93,849	$11,731	105,580
6	Over 1 million	97,136	$12,142	109,278

Table 9: Calendar Year 2024

Class Number	Population Range	CY 2024 Salary County Paid**	CY 2024 Salary State Paid***	CY 2024 Total Salary
1	1-55,000	$58,865	$7,358	$66,223
2	55,001 - 95,000	69,329	$8,666	77,995
3	95,001 - 200,000	79,796	$9,975	89,771
4	200,001 - 400,000	88,952	$11,119	100,071
5	400,001 – 1 million	95,491	$11,936	107,427
6	Over 1 million	98,836	$12,355	111,191

Table 10: Calendar Year 2025

Class Number	Population Range	CY 2025 Salary County Paid**	CY 2025 Salary State Paid***	CY 2025 Total Salary
1	1-55,000	$59,895	$7,487	$67,382
2	55,001 - 95,000	70,542	$8,818	79,360
3	95,001 - 200,000	81,192	$10,149	91,341
4	200,001 - 400,000	90,509	$11,314	101,823
5	400,001 – 1 million	97,162	$12,145	109,307
6	Over 1 million	100,566	$12,571	113,137

Table 11: Calendar Year 2026

Class Number	Population Range	CY 2026 Salary County Paid**	CY 2026 Salary State Paid***	CY 2026 Total Salary
1	1-55,000	$60,943	$7,618	$68,561
2	55,001 - 95,000	71,776	$8,972	80,748
3	95,001 - 200,000	82,613	$10,327	92,940
4	200,001 - 400,000	92,093	$11,512	103,605
5	400,001 – 1 million	98,862	$12,358	111,220
6	Over 1 million	102,326	$12,791	115,117

Table 12: Calendar Year 2027

Class Number	Population Range	CY 2027 Salary County Paid**	CY 2027 Salary State Paid***	CY 2027 Total Salary
1	1-55,000	$62,010	$7,751	$69,761
2	55,001 - 95,000	73,032	$9,129	82,161
3	95,001 - 200,000	84,059	$10,507	94,566
4	200,001 - 400,000	93,705	$11,713	105,418
5	400,001 – 1 million	100,592	$12,574	113,166
6	Over 1 million	104,117	$13,015	117,132

Table 13: Calendar Year 2028

Class Number	Population Range	CY 2028 Salary County Paid**	CY 2028 Salary State Paid***	CY 2028 Total Salary
1	1-55,000	$63,095	$7,887	$70,982
2	55,001 - 95,000	74,310	$9,289	83,599
3	95,001 - 200,000	85,530	$10,691	96,221
4	200,001 - 400,000	95,345	$11,918	107,263
5	400,001 – 1 million	102,352	$12,794	115,146
6	Over 1 million	105,939	$13,242	119,181

* 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 service 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 14: Coroners with a Private Practice

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
1	1-55,000	$30,993	$32,543	$34,170	$34,768	$35,376	$35,995	$36,625	$37,266	$37,918	$38,582	$39,257
2	55,001 - 95,000	45,384	47,653	50,036	50,912	51,803	52,710	53,632	54,571	55,526	56,498	57,487
3	95,001 - 200,000	56,458	59,281	62,245	63,334	64,442	65,570	66,717	67,885	69,073	70,282	71,512
4	200,001 - 400,000	69,739	73,226	76,887	78,233	79,602	80,995	82,412	83,854	85,321	86,814	88,333
5	400,001 - 1 million	78,594	82,524	86,650	88,166	89,709	91,279	92,876	94,501	96,155	97,838	99,550
6	Over 1 million	83,310	87,476	91,849	93,456	95,091	96,755	98,448	100,171	101,924	103,708	105,523

Table 15: Coroners without a Private Practice*

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
1	1-55,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2	55,001 - 95,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3**	95,001 - 175,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
3**	175,001 - 200,000	$127,563	$133,941	$140,638	$143,099	$145,603	$148,151	$150,744	$153,382	$156,066	$158,797	$161,576
4	200,001 – 400,000	127,563	133,941	140,638	143,099	145,603	148,151	150,744	153,382	156,066	158,797	161,576
5	400,001 – 1 million	130,661	137,194	144,054	146,575	149,140	151,750	154,406	157,108	159,857	162,654	165,500
6	Over 1 million	133,759	140,447	147,469	150,050	152,676	155,348	158,067	160,833	163,648	166,512	169,426

***** Coroners serving counties of 175,001 or more in population and without private practice shall receive supplemental compensation of 50 percent of their annual compensation provided in ORC sections 325.15 and 325.18 provided that the following conditions are satisfied: (see following page)

1. The office operates as a regional forensic pathology examination referral center, and the operation generates sufficient coroner's laboratory fund income that exceeds the fund's expenses and is sufficient to provide the supplemental compensation;
2. The coroner is a forensic pathologist certified by the American Board of Pathology; and
3. The coroner performs a minimum of 75 post-mortem examinations annually.

If the coroner does not satisfy the first or third criteria, the coroner may still receive supplemental compensation of 25 percent of the coroner's annual compensation for serving as a Board-certified forensic pathologist and performing the county's forensic examinations. The supplemental compensation is subject to board of commissioners' approval.

** Class 3 for Coroners without a private practice begins with a population of 175,001, unlike Class 3 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 exchanges for forgoing a private practice.

Table 16: Engineers with a Private Practice

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
1	1-55,000	$67,746	$71,133	$74,690	$75,997	$77,327	$78,680	$80,057	$81,458	$82,884	$84,334	$85,810
2	55,001 - 95,000	73,059	76,712	80,548	81,958	83,392	84,851	86,336	87,847	89,384	90,948	92,540
3	95,001 - 200,000	78,594	82,524	86,650	88,166	89,709	91,279	92,876	94,501	96,155	97,838	99,550
4	200,001 - 400,000	83,022	87,173	91,532	93,134	94,764	96,422	98,109	99,826	101,573	103,351	105,160
5	400,001 - 1 million	88,556	92,984	97,633	99,342	101,080	102,849	104,649	106,480	108,343	110,239	112,168
6	Over 1 million	92,009	96,609	101,440	103,215	105,021	106,859	108,729	110,632	112,568	114,538	116,542

Table 17: Engineers without a Private Practice

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary
1	1-55,000	$94,103	$98,808	$103,749	$105,565
2	55,001 - 95,000	99,417	104,388	109,607	111,525
3	95,001 - 200,000	104,950	110,198	115,707	117,732
4	200,001 - 400,000	109,378	114,847	120,589	122,699
5	400,001 - 1 million	114,914	120,660	126,693	128,910
6	Over 1 million	118,361	124,279	130,493	132,777

CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
$107,412	$109,292	$111,205	$113,151	$115,131	$117,146	$119,196
113,477	115,463	117,484	119,540	121,632	123,761	125,927
119,792	121,888	124,021	126,191	128,399	130,646	132,932
124,846	127,031	129,254	131,516	133,818	136,160	138,543
131,166	133,461	135,797	138,173	140,591	143,051	145,554
135,101	137,465	139,871	142,319	144,810	147,344	149,923

Table 18: Prosecutors with a Private Practice

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
1	1-55,000	$67,413	$70,784	$72,023	$73,283	$74,565	$75,870	$77,198	$78,549	$79,924	$81,323	$82,746
2	55,001 - 95,000	74,969	78,717	80,095	81,497	82,923	84,374	85,851	87,353	88,882	90,437	92,020
3	95,001 - 200,000	81,363	85,431	86,926	88,447	89,995	91,570	93,172	94,803	96,462	98,150	99,868
4	200,001 - 400,000	90,662	95,195	96,861	98,556	100,281	102,036	103,822	105,639	107,488	109,369	111,283
5	400,001 - 1 million	96,471	101,294	103,067	104,871	106,706	108,573	110,473	112,406	114,373	116,375	118,412
6	Over 1 million	100,040	105,042	106,880	108,750	110,653	112,589	114,559	116,564	118,604	120,680	122,792

Tables 19-29: Prosecutors without a Private Practice

Table 19: Calendar Year 2018

Class Number	Population Range	CY 2018 Salary County Paid	CY 2018 Salary State Paid*	CY 2018 Total Salary**
1	1-55,000	$99,295	$21,254	$120,549
2***	55,001 - 70,000	110,352	23,589	133,941
2***	70,001 - 95,000	133,941	N/A	133,941
3	95,001 - 200,000	133,941	N/A	133,941
4	200,001 - 400,000	133,941	N/A	133,941
5	400,001 – 1 million	137,194	N/A	137,194
6	Over 1 million	140,447	N/A	140,447

Table 20: Calendar Year 2019

Class Number	Population Range	CY 2019 Salary County Paid	CY 2019 Salary State Paid*	CY 2019 Total Salary**
1	1-55,000	$104,260	$22,317	$126,577
2***	55,001 - 70,000	115,870	24,768	140,638
2***	70,001 - 95,000	140,638	N/A	140,638
3	95,001 - 200,000	140,638	N/A	140,638
4	200,001 - 400,000	140,638	N/A	140,638
5	400,001 – 1 million	144,053	N/A	144,053
6	Over 1 million	147,469	N/A	147,469

Table 21: Calendar Year 2020

Class Number	Population Range	CY 2020 Salary County Paid	CY 2020 Salary State Paid*	CY 2020 Total Salary**
1	1-55,000	$106,084	$22,708	$128,792
2***	55,001 - 70,000	117,897	25,202	143,099
2***	70,001 - 95,000	143,099	N/A	143,099
3	95,001 - 200,000	143,099	N/A	143,099
4	200,001 - 400,000	143,099	N/A	143,099
5	400,001 – 1 million	146,574	N/A	146,574
6	Over 1 million	150,050	N/A	150,050

Table 22: Calendar Year 2021

Class Number	Population Range	CY 2021 Salary County Paid	CY 2021 Salary State Paid*	CY 2021 Total Salary**
1	1-55,000	$107,941	$23,105	$131,046
2***	55,001 - 70,000	119,961	25,642	145,603
2***	70,001 - 95,000	145,603	N/A	145,603
3	95,001 - 200,000	145,603	N/A	145,603
4	200,001 - 400,000	145,603	N/A	145,603
5	400,001 – 1 million	149,139	N/A	149,139
6	Over 1 million	152,676	N/A	152,676

Table 23: Calendar Year 2022

Class Number	Population Range	CY 2022 Salary County Paid	CY 2022 Salary State Paid*	CY 2022 Total Salary**
1	1-55,000	$109,829	$23,510	$133,339
2***	55,001 - 70,000	122,060	26,091	148,151
2***	70,001 - 95,000	148,151	N/A	148,151
3	95,001 - 200,000	148,151	N/A	148,151
4	200,001 - 400,000	148,151	N/A	148,151
5	400,001 – 1 million	151,749	N/A	151,749
6	Over 1 million	155,348	N/A	155,348

Table 24: Calendar Year 2023

Class Number	Population Range	CY 2023 Salary County Paid	CY 2023 Salary State Paid*	CY 2023 Total Salary**
1	1-55,000	$111,751	$23,921	$135,672
2***	55,001 - 70,000	124,196	26,548	150,744
2***	70,001 - 95,000	150,744	N/A	150,744
3	95,001 - 200,000	150,744	N/A	150,744
4	200,001 - 400,000	150,744	N/A	150,744
5	400,001 – 1 million	154,405	N/A	154,405
6	Over 1 million	158,067	N/A	158,067

Table 25: Calendar Year 2024

Class Number	Population Range	CY 2024 Salary County Paid	CY 2024 Salary State Paid*	CY 2024 Total Salary**
1	1-55,000	$113,707	$24,339	$138,046
2***	55,001 - 70,000	126,370	27,012	153,382
2***	70,001 - 95,000	153,382	N/A	153,382
3	95,001 - 200,000	153,382	N/A	153,382
4	200,001 - 400,000	153,382	N/A	153,382
5	400,001 – 1 million	157,107	N/A	157,107
6	Over 1 million	160,833	N/A	160,833

Table 26: Calendar Year 2025

Class Number	Population Range	CY 2025 Salary County Paid	CY 2025 Salary State Paid*	CY 2025 Total Salary**
1	1-55,000	$115,697	$24,765	$140,462
2***	55,001 - 70,000	128,581	27,485	156,066
2***	70,001 - 95,000	156,066	N/A	156,066
3	95,001 - 200,000	156,066	N/A	156,066
4	200,001 - 400,000	156,066	N/A	156,066
5	400,001 – 1 million	159,856	N/A	159,856
6	Over 1 million	163,648	N/A	163,648

Table 27: Calendar Year 2026

Class Number	Population Range	CY 2026 Salary County Paid	CY 2026 Salary State Paid*	CY 2026 Total Salary**
1	1-55,000	$117,722	$25,198	$142,920
2***	55,001 - 70,000	130,831	27,966	158,797
2***	70,001 - 95,000	158,797	N/A	158,797
3	95,001 - 200,000	158,797	N/A	158,797
4	200,001 - 400,000	158,797	N/A	158,797
5	400,001 – 1 million	162,653	N/A	162,653
6	Over 1 million	166,512	N/A	166,512

Table 28: Calendar Year 2027

Class Number	Population Range	CY 2027 Salary County Paid	CY 2027 Salary State Paid*	CY 2027 Total Salary**
1	1-55,000	$119,782	$25,639	$145,421
2***	55,001 - 70,000	133,120	28,456	161,576
2***	70,001 - 95,000	161,576	N/A	161,576
3	95,001 - 200,000	161,576	N/A	161,576
4	200,001 - 400,000	161,576	N/A	161,576
5	400,001 – 1 million	165,499	N/A	165,499
6	Over 1 million	169,426	N/A	169,426

Table 29: Calendar Year 2028

Class Number	Population Range	CY 2028 Salary County Paid	CY 2028 Salary State Paid*	CY 2028 Total Salary**
1	1-55,000	$121,878	$26,088	$147,966
2***	55,001 - 70,000	135,450	28,954	164,404
2***	70,001 - 95,000	164,404	N/A	164,404
3	95,001 - 200,000	164,404	N/A	164,404
4	200,001 - 400,000	164,404	N/A	164,404
5	400,001 – 1 million	168,395	N/A	168,395
6	Over 1 million	172,391	N/A	172,391

* 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 2 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 30: Recorders

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary
1	1-55,000	$47,599	$49,979	$52,478	$53,396
2	55,001 - 95,000	55,349	58,116	61,022	62,090
3	95,001 - 200,000	63,098	66,253	69,566	70,783
4	200,001 - 400,000	71,951	75,549	79,326	80,714
5	400,001 - 1 million	78,594	82,524	86,650	88,166
6	Over 1 million	82,051	86,154	90,461	92,044

CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
$54,330	$55,281	$56,248	$57,232	$58,234	$59,253	$60,290
63,177	64,283	65,408	66,553	67,718	68,903	70,109
72,022	73,282	74,564	75,869	77,197	78,548	79,923
82,126	83,563	85,025	86,513	88,027	89,567	91,134
89,709	91,279	92,876	94,501	96,155	97,838	99,550
93,655	95,294	96,962	98,659	100,386	102,143	103,931

Tables 31-41: Sheriffs

Table 31: Calendar Year 2018

Class Number	Population Range	CY 2018 Salary County Paid	CY 2018 Salary State Paid*	CY2018 Total Salary**
1	1-55,000	$61,624	$7,703	$69,327
2	55,001 - 95,000	71,384	8,923	80,307
3	95,001 - 200,000	86,974	10,872	97,846
4	200,001 - 400,000	97,437	12,180	109,617
5	400,001 – 1 million	103,249	12,906	116,155
6	Over 1 million	106,241	13,280	119,521

Table 32: Calendar Year 2019

Class Number	Population Range	CY 2019 Salary County Paid	CY 2019 Salary State Paid*	CY 2019 Total Salary**
1	1-55,000	$64,327	$8,041	$72,368
2	55,001 - 95,000	74,953	9,369	84,322
3	95,001 - 200,000	91,322	11,415	102,737
4	200,001 - 400,000	102,309	12,789	115,098
5	400,001 – 1 million	108,411	13,551	121,962
6	Over 1 million	111,553	13,944	125,497

Table 33: Calendar Year 2020

Class Number	Population Range	CY 2020 Salary County Paid	CY 2020 Salary State Paid*	CY 2020 Total Salary**
1	1-55,000	$65,453	$8,182	$73,635
2	55,001 - 95,000	76,265	9,533	85,798
3	95,001 - 200,000	92,920	11,615	104,535
4	200,001 - 400,000	104,099	13,012	117,111
5	400,001 – 1 million	110,308	13,789	124,097
6	Over 1 million	113,505	14,188	127,693

Table 34: Calendar Year 2021

Class Number	Population Range	CY 2021 Salary County Paid	CY 2021 Salary State Paid*	CY 2021 Total Salary**
1	1-55,000	$66,598	$8,325	$74,923
2	55,001 - 95,000	77,600	9,700	87,300
3	95,001 - 200,000	94,546	11,818	106,364
4	200,001 - 400,000	105,921	13,240	119,161
5	400,001 – 1 million	112,238	14,030	126,268
6	Over 1 million	115,491	14,436	129,927

Table 35: Calendar Year 2022

Class Number	Population Range	CY 2022 Salary County Paid	CY 2022 Salary State Paid*	CY 2022 Total Salary**
1	1-55,000	$67,763	$8,470	$76,233
2	55,001 - 95,000	78,958	9,870	88,828
3	95,001 - 200,000	96,201	12,025	108,226
4	200,001 - 400,000	107,775	13,472	121,247
5	400,001 – 1 million	114,202	14,275	128,477
6	Over 1 million	117,512	14,689	132,201

Table 36: Calendar Year 2023

Class Number	Population Range	CY 2023 Salary County Paid	CY 2023 Salary State Paid*	CY 2023 Total Salary**
1	1-55,000	$68,949	$8,619	$77,568
2	55,001 - 95,000	80,340	10,043	90,383
3	95,001 - 200,000	97,885	12,236	110,121
4	200,001 - 400,000	109,661	13,708	123,369
5	400,001 – 1 million	116,201	14,525	130,726
6	Over 1 million	119,568	14,946	134,514

Table 37: Calendar Year 2024

Class Number	Population Range	CY 2024 Salary County Paid	CY 2024 Salary State Paid*	CY 2024 Total Salary**
1	1-55,000	$70,156	$8,770	$78,926
2	55,001 - 95,000	81,746	10,218	91,964
3	95,001 - 200,000	99,598	12,450	112,048
4	200,001 - 400,000	111,580	13,948	125,528
5	400,001 – 1 million	118,235	14,779	133,014
6	Over 1 million	121,660	15,208	136,868

Table 38: Calendar Year 2025

Class Number	Population Range	CY 2025 Salary County Paid	CY 2025 Salary State Paid*	CY 2025 Total Salary**
1	1-55,000	$71,384	$8,923	$80,307
2	55,001 - 95,000	83,177	10,397	93,574
3	95,001 - 200,000	101,341	12,668	114,009
4	200,001 - 400,000	113,533	14,192	127,725
5	400,001 – 1 million	120,304	15,038	135,342
6	Over 1 million	123,789	15,474	139,263

Table 39: Calendar Year 2026

Class Number	Population Range	CY 2026 Salary County Paid	CY 2026 Salary State Paid*	CY 2026 Total Salary**
1	1-55,000	$72,633	$9,079	$81,712
2	55,001 - 95,000	84,633	10,579	95,212
3	95,001 - 200,000	103,114	12,889	116,003
4	200,001 - 400,000	115,520	14,440	129,960
5	400,001 – 1 million	122,409	15,301	137,710
6	Over 1 million	125,955	15,744	141,699

Table 40: Calendar Year 2027

Class Number	Population Range	CY 2027 Salary County Paid	CY 2027 Salary State Paid*	CY 2027 Total Salary**
1	1-55,000	$73,904	$9,238	$83,142
2	55,001 - 95,000	86,114	10,764	96,878
3	95,001 - 200,000	104,918	13,115	118,033
4	200,001 - 400,000	117,542	14,693	132,235
5	400,001 – 1 million	124,551	15,569	140,120
6	Over 1 million	128,159	16,020	144,179

Table 41: Calendar Year 2028

Class Number	Population Range	CY 2028 Salary County Paid	CY 2028 Salary State Paid*	CY 2028 Total Salary**
1	1-55,000	$75,197	$9,400	$84,597
2	55,001 - 95,000	87,621	10,953	98,574
3	95,001 - 200,000	106,754	13,344	120,098
4	200,001 - 400,000	119,599	14,950	134,549
5	400,001 – 1 million	126,731	15,841	142,572
6	Over 1 million	130,402	16,300	146,702

* 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 42: Treasurers

Class Number	Population Range	Calendar Year 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary
1	1-55,000	$49,813	$52,304	$54,919	$55,880
2	55,001 - 95,000	58,668	61,601	64,681	65,813
3	95,001 - 200,000	67,525	70,901	74,446	75,749
4	200,001 - 400,000	75,273	79,037	82,988	84,440
5	400,001 - 1 million	80,807	84,847	89,090	90,649
6	Over 1 million	83,636	87,818	92,209	93,823

CY 2022 Salary	CY 2023 Salary	CY 2024 Salary	CY 2025 Salary	CY 2026 Salary	CY 2027 Salary	CY 2028 Salary
$56,858	$57,853	$58,865	$59,895	$60,943	$62,010	$63,095
66,965	68,137	69,329	70,542	71,776	73,032	74,310
77,075	78,424	79,796	81,192	82,613	84,059	85,530
85,918	87,422	88,952	90,509	92,093	93,705	95,345
92,235	93,849	95,491	97,162	98,862	100,592	102,352
95,465	97,136	98,836	100,566	102,326	104,117	105,939

Note: 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 prorated. (Attorney General Opinion 90-023)

Therefore, county treasurers who are in-term as of December 27, 2018, shall continue to receive the 2018 salary until their next term of office begins in September 2021, at which point their 2021 calendar year salary shall be prorated for the remainder of 2021.

Tables 43-45: Salaries of Common Pleas Judges

Table 43: Common Pleas Judges in Counties with Populations of 77,778 or Greater

Source of Funding	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
County	$14,000	$14,000	$14,000	$14,000	$14,000
State	126,550	133,600	136,183	138,811	141,485
Total	140,550	147,600	150,183	152,811	155,485

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$14,000	$14,000	$14,000	$14,000	14,000	14,000
144,206	146,975	149,792	152,658	155,575	158,543
158,206	160,975	163,792	166,658	169,575	172,543

Table 44: Common Pleas Judges in Counties with Populations from 77,777 – 19,445

Source of Funding	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
County	18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____
State	Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____
Total	140,550	147,600	150,183	152,811	155,485

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____	18 cents per capita $_____
Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____	Total Salary minus County Paid _____
158,206	160,975	163,792	166,658	169,575	172,543

Table 45: Common Pleas Judges in Counties with Populations of 19,444 or Fewer

Source of Funding	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
Local	$3,500	$3,500	$3,500	$3,500	$3,500
State	137,050	144,100	146,683	149,311	151,985
Total	140,550	147,600	150,183	152,811	155,485

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$3,500	$3,500	$3,500	$3,500	$3,500	$3,500
154,706	157,475	160,292	163,158	166,075	169,043
158,206	160,975	163,792	166,658	169,575	172,543

Tables 46-48: Municipal and County Court Judges

Table 46: Full-time Municipal Judges and Part-time Municipal Judges Who Serve in a Territory Exceeding 50,0000 Population

Source of Funding	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
Local	$61,750	$61,750	$61,750	$61,750	$61,750
State	70,400	77,050	79,479	81,951	84,466
Total	132,150	138,800	141,229	143,701	146,216

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$61,750	$61,750	$61,750	$61,750	$61,750	$61,750
87,025	89,629	92,278	94,973	97,716	100,507
148,775	151,379	154,028	156,723	159,466	162,257

Note: Municipalities generally pay 60%, counties 40%, except in county operated municipal courts where county pays 100%.

Table 47: Part-time Municipal Judges Except Those Part-time Municipal Court Judges Who Serve in a Territory Exceeding 50,000 Population

Source of Funding	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
Local	$35,500	$35,500	$35,500	$35,500	$35,500
State	40,550	44,400	45,798	47,221	48,669
Total	76,050	79,900	81,298	82,721	84,169

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$35,500	$35,500	$35,500	$35,500	$35,500	$35,500
50,142	51,641	53,166	54,718	56,297	57,903
85,642	87,141	88,666	90,218	91,797	93,403

Note: Municipalities generally pay 60%, counties 40%, except in county operated municipal courts where county pays 100%

Table 48: County Court Judges

Source of Funding	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
Local	$35,500	$35,500	$35,500	$35,500	$35,500
State	40,550	44,400	45,798	47,221	48,669
Total	76,050	79,900	81,298	82,721	84,169

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$35,500	$35,500	$35,500	$35,500	$35,500	$35,500
50,142	51,641	53,166	54,718	56,297	57,903
85,642	87,141	88,666	90,218	91,797	93,403

Note: Excludes county permissive payments pursuant to ORC 1907.17

Table 49: Additional Compensation for Presiding & Administrative Judges in 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.

Table 50: Additional Compensation for Presiding & Administrative Judges in 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 51: Boards of Elections Members

Base	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
For each full 1,000 population of first 100,000	$102.41	$104.20	$106.02	$107.88	$109.77
For each full 1,000 population of second 100,000	48.79	49.64	50.51	51.39	52.29
For each full 1,000 population of third 100,000	26.50	26.96	27.43	27.91	28.40
For each full 1,000 population over 300,000	8.13	8.27	8.41	8.56	8.71

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$111.69	$113.64	$115.63	$117.65	$119.71	$121.80
53.21	54.14	55.09	56.05	57.03	58.03
28.90	29.41	29.92	30.44	30.97	31.51
8.86	9.02	9.18	9.34	9.50	9.67

Table 52: Boards of Elections Members Maximum & Minimum Compensation

	Calendar Year 2018	CY 2019	CY 2020	CY 2021	CY 2022
Minimum	$6,000	$6,000	$6,000	$6,000	$6,000
Maximum*	N/A	N/A	N/A	N/A	N/A

CY 2023	CY 2024	CY 2025	CY 2026	CY 2027	CY 2028
$6,000	$6,000	$6,000	$6,000	$6,000	$6,000
N/A	N/A	N/A	N/A	N/A	N/A

* SB 296 removed the maximum BOE member compensation limit previously in statute.

Appendix A: Examples of Compensation Implementation in S.B. 296

Example 1: County Commissioner Smith was re-elected during the 2018 November General Election. Commissioner Smith was first elected in 2010 and is from a county of 45,000 people, what would be considered a Class 1 county under current statute.

Commissioner Smith's salary schedule is as follows:

CY 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary
$44,421	$51,423	$53,994	$54,939	$55,900

Commissioner Smith received two five percent raises on paper from H.B. 64 of the 131st General Assembly. However, since Commissioner Smith took office prior to the effective date of H.B. 64 (Sept. 29, 2015), he was not able to accept those salary increases until his next term of office began in January 2019 due to Constitutional restrictions against in-term increases. Thus, after taking office in January 2019, he was able to receive the two five percent increases in addition to the first five percent increase included in S.B. 296. Going forward, Commissioner Smith will be able to accept the second five percent increase from S.B. 296 in 2020 as well as the cost of living adjustments in 2021 and 2022.

Example 2: County Commissioner Johnson was first elected in 2012. She is from a county of 150,000 people - considered a Class 3 county under statute. For the example's purposes, Commission Johnson is re-elected in the future 2020 election.

Commissioner Johnson's salary schedule is as follows:

CY 2018 Salary	CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary
$72,346	$72,346	$72,346	$81,157	$82,577

Following Commissioner Johnson's re-election in 2016, she was able to receive her five percent pay increases in 2016 and 2017 due to her taking office after H.B. 64's effective date (Sept. 29, 2015). However, due to her being in-term, she will not be able to accept the two five percent increases and the first COLA included in S.B. 296 until taking office in January 2021.

Example 3: County Commissioner Williams was appointed as a County Commissioner in 2019. He is from a county of over 1 million people, making it a Class 6 County under current statute.

Commissioner Williams' salary schedule is as follows:

CY 2019 Salary	CY 2020 Salary	CY 2021 Salary	CY 2022 Salary
$107,051	$112,403	$114,370	$116,371

Commissioner Williams is eligible to accept the salary increases as written in S.B. 296 due to his taking office after the Dec. 27, 2018 effective date.

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State Bulletin

Bulletin 2019-003

DATE ISSUED: **November 18, 2019**

TO: **All Political Subdivisions**
All Independent Public Accountants

FROM: **Keith Faber, Ohio Auditor of State**

SUBJECT: **Ohio Sunshine Laws and New Star Rating System**

Central to the founding principle of self-governance is the ability of the public to participate; to create a partnership among the citizens of a community, some of whom have come forward in elective roles. Transparency in governing makes those who serve more accountable to their fellow citizens and also fosters the exchange of ideas to increase efficiency and effectiveness with public dollars. To that end, Ohio Sunshine Laws ensure all citizens are granted the right to have broad access to government records and meetings.

The Ohio Auditor of State's Office (AOS) works to ensure the Ohio Sunshine Laws are respected and complied with at every level. Each year, the AOS partners with the Ohio Attorney General's Office to distribute *Ohio Sunshine Laws, An Open Government Resource Manual*. This manual provides extensive information regarding the Ohio Public Records Act and Ohio Open Meetings Act and is available at http://www.ohioauditor.gov/open.html. Both offices also conduct Certified Public Records Training to educate public officeholders and their staff about their statutory duties. These classes are also open to the public.

Ohio public records and open meeting laws can be confusing, which is why it is critical that public offices routinely consult with their statutory counsel for legal advice on how to: draft public records and record retention policies, implement them, respond to requests and educate their staff on complying with Ohio's Sunshine Laws. The guidance in this Bulletin is meant to assist public offices to ensure staff is complying with the law. If a citizen believes the Public Records or Open Meetings Acts have been violated, it's imperative that staff work with them to help them understand the public records process. This helps to create goodwill between the public office and constituents while avoiding potential litigation that can be costly to taxpayers and the community.

Our office is introducing a new approach to how the AOS and contracted independent public accountants (IPAs) report public offices' compliance with Ohio's Sunshine Laws. This Bulletin supersedes and replaces AOS Bulletin 2011-006. Procedures outlined in this Bulletin should be applied to audit engagements with a fiscal year ending December 31, 2019 and later, and will be updated in the 2020 *Ohio Compliance Supplement*.

The compliance testing results will be incorporated into the new AOS Star Rating System (StaRS), described in this Bulletin. The StaRS will reflect a rating for each public office, i.e. a public entity such as a county, for every audit period ending December 31, 2019 or after, which not only measures compliance with Sunshine Laws, but also encourages public entities to be more open and transparent with the citizens they serve through implementation of identified best practices. The public should be mindful that while testing for StaRS ratings will begin on January 1, 2020, results will not become available until audits are completed later in 2020.

Public offices receiving StaRS ratings with 2 or more stars will be given the opportunity to print a certificate to highlight their accomplishment. This certificate will be made available via the applicable public office's Auditor of State eServices account at the completion of their audit.

Sunshine Law Requirements:

The Sunshine Law incorporates two acts, the Ohio Public Records Act R.C. 149.43 and the Ohio Open Meetings Act R.C. 121.22. As provided in the Acts and R.C. 109.43, during an annual/biennial audit pursuant to R.C. Chapter 117 the AOS will test for compliance with these statutes. A brief description of the Acts follow.[1]

AOS will be testing for statutory compliance with the Ohio Public Records Act and Ohio Open Meetings Act, and reporting those results with more emphasis. The General Assembly has empowered the public to ensure their local governments are acting transparently in carrying out the peoples' business by creating these two self-help statutes. If a citizen believes a public office has violated either Act, they can file an action in the appropriate court.

Ohio Public Records Act - R.C. 149.43

This Act requires that a public office make public records available for inspection or copying. The time required for a response depends on the type of request.

1) If a request is to INSPECT public records, the response must be **prompt**.
2) If COPIES are requested, those copies must be provided within a **reasonable period of time**.

As is often noted, the terms "promptly" and "reasonable period of time" are not defined by a specific period of time. Rather, these terms have been interpreted by courts to mean "without delay" and "with reasonable

[1] For full details of all requirements and exceptions see the Ohio Sunshine Law Manual at: https://www.ohioattorneygeneral.gov/Legal/Sunshine-Laws.

speed,[2]" and the ultimate determination of "reasonableness" will differ in each case depending on the particular facts and circumstances of a request.[3] Additionally, courts have held that a "prompt" or "reasonable period of time" includes the time for a public office to: (1) identify the responsive records; (2) locate and retrieve records from place of storage; (3) review, analyze and make necessary redactions (or legal review); (4) prepare the requests; and (5) provide for delivery.

Not all documents and information maintained by a public office are subject to disclosure under the Act. In these instances, it may be necessary to withhold records such as when the document is not a public record, or redact information from the response, such as social security numbers. When redacting information from a request, the public office is required to notify the requester of any redaction or make the redaction plainly visible.[4] Additionally, where the request is denied, in whole or in part, including redactions, the public office must provide the requester with a reason, including the legal authority for the denial/redaction.[5]

Because the Public Records Act is a self-help statute, if a person believes the public office has violated the Act in any way, he or she must initiate a legal action themselves. Neither the AOS nor any other public official can do so on their behalf. More general information can be found in the Ohio Sunshine Manual found at http://www.ohioauditor.gov/open.html. For more specific information, both citizens and public offices should consult their legal counsel.

Ohio Open Meetings Act – R.C. 121.22

This Act requires that all meetings of any public body be open to the public. The minutes of regular and special meetings are to be promptly recorded and open to the public for inspection. Executive session may be held at a regular or special meeting, but must be entered into and returned from during the public meeting. To enter into executive session requires a roll call vote while ending an executive session only requires a simple voice/majority vote. But in both instances the votes can only be taken during the public portion of the meeting. Matters that can be discussed during executive session are specifically limited by R.C. 121.22(G); actions and decisions must occur during the open meetings. The minutes need to only reflect the general subject matter of discussions in executive sessions.

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[2] *State ex rel. Office of Montgomery Cty. Pub. Defender v. Siroki*, 108 Ohio St.3d 207, 2006-Ohio-662, at,¶16; *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.*, 97 Ohio St.3d 58, 2002-Ohio-5311, at,¶37; *State ex rel. Wadd v. City of Cleveland*, 81 Ohio St.3d 50, 53, 1998-Ohio-444.

[3] *State ex rel. Morgan v. Strickland*, 121 Ohio St.3d 600, 2009-Ohio-1901, at ¶17 ("Given the broad scope of the records requested, the governor's office's decision to review the records before producing them, to determine whether to redact exempt matter, was not unreasonable."); *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St.3d 160, 2005-Ohio-4384, at ¶44 (delay due to "breadth of the requests and the concerns over the employees' constitutional right of privacy" was not unreasonable); *State ex rel. Consumer News Serv., Inc. v. Worthington City Bd. of Educ.*, 97 Ohio St.3d 58, 2002-Ohio-5311; *State ex rel. Striker v. Cline* (5th Dist.), 2010-Ohio-3592 (provision of records within nine business days was a reasonable period of time to respond to a records request.); *State ex rel. Holloman v. Collins* (10th Dist.), 2010-Ohio-3034 (Assessing whether there has been a violation of the public records act, the critical time frame is not the number of days between when respondent received the public records request and when relator filed his action. Rather, the relevant time frame is the number of days it took for respondent to properly respond to the relator's public records request.).

[4] Ohio Rev. Code § 149.43(B)(1).

[5] Ohio Rev. Code § 149.43(B)(3).

Every public body shall establish a reasonable method[6] of notifying the public of the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A special meeting requires twenty-four hour notice to the news media that have requested notification, except in the event of an emergency requiring immediate action, whereby notice shall be immediate.

Because the Open Meetings Act is a self-help statute, if a person believes the public office has violated the Act in any way, he or she must initiate a legal action themselves. Neither the AOS nor any other public official can do so on their behalf. More general information can be found in the Ohio Sunshine Manual found at http://www.ohioauditor.gov/open.html. For more specific information, both citizens and public offices should consult their legal counsel.

Compliance Testing:

For those entities, such as counties, that have multiple elected officials or oversight boards, the departments/offices that have adopted their own public record policies should be tested on a rotating basis. Test half of the departments/offices each year, unless there has been a change to the policy, then test in the year of the change. The public office's entity-wide policy should be tested annually. Charter municipalities may have different requirements depending on their charters. Therefore, requirements/testing for charter entities may differ.

Requirements / Testing Procedures:

1. The public office shall create and adopt a policy for responding to public records requests. The public records policy may not: (a) limit the number of public records that the public office will make available to a single person, (b) limit the number of public records that it will make available during a fixed period of time, and (c) establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours. [Ohio Rev. Code § 149.43(E)(2)]

   Obtain the public office's Public Records Policy and scan it to be sure the policy did not limit the number of responses that will be made to a particular person, limit the number of responses during a specified period of time, or establish a fixed period of time before it will respond unless that period is less than eight hours.

2. Public records are promptly prepared and sent to the requestor, and/or promptly prepared and made available for inspection by the requestor within a reasonable time. [Ohio Rev. Code § 149.43(B)(1)]

   Select a sample of five (or total population if less than five) public records requests from the audit period to ensure the public office was compliant within a "reasonable" time.

3. If a request is denied, in part or in whole, the public office shall provide the requester with an explanation, including legal authority. [Ohio Rev. Code § 149.43(B)(3)]

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[6] Ohio Rev. Code § 121.22(F); *Katterhenrich v. Fed. Hocking Local School Dist. Bd. of Edn.*, 121 Ohio App.3d 579, 587 (4th Dist. 1997) ("Typically, one would expect regular meetings to be scheduled well in advance ….").

Select a sample of five (or total population if less than five) denied, in whole or in part, public records requests from the audit period, to ensure the public office provided an explanation which includes the legal authority to the requester.

4. The public office shall notify the requester of any redaction(s) or make them plainly visible and provided an explanation, including legal authority. [Ohio Rev. Code § 149.43(B)(1)]

   Select a sample of five (or total population if less than five) public records requests with redactions from the audit period to ensure the public office was redacting records and making the redactions visible, and provided an explanation which includes the legal authority to the requester.

5. A public office shall have a copy of its current records retention schedule at a location readily available to the public. [Ohio Rev. Code § 149.43(B)(2)]

   Ascertain whether the public office has a records retention policy, and that it is readily available to the public.

6. The public office shall distribute the public records policy to the employee who is the records custodian or records manager or employee who otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. [Ohio Rev. Code § 149.43(E)(2)]

   Determine whether written evidence exists that the Public Records Policy was provided to the records custodian/manager.

7. If the public office has established a manual or handbook of its general policies and procedures, the public office shall include the public records policy in the manual or handbook. [Ohio Rev. Code § 149.43(E)(2)]

   Ascertain whether the public office's public records policy was included in policy manuals.

8. The public office shall create a poster describing their public records policy and shall post it in a conspicuous place in all public locations of that public office. [Ohio Rev. Code § 149.43(E)(2)]

   Ascertain whether the public office's poster describing the policy is displayed conspicuously in all branches of the public office.

9. The appropriate records commission shall review the schedules of records retention and disposition, as well as any applications for the one-time disposal of obsolete records. [Ohio Rev. Code §§ 149.38, 149.39, 149.41, 149.411, 149.412, and 149.42]

If submitted, obtain up to five applications for one-time disposal of obsolete records, and also review the schedules of records retention and dispositions for the audit period. In both instances, confirm approval by the appropriate records commission. (Note: the records retention schedule is not the same policy as the public records policy.)

10. All elected officials or their designees shall attend public records training approved by the Attorney General. [Ohio Rev. Code § 149.43(E)(1)] Training is required to be three hours for every term of office. [Ohio Rev. Code § 109.43(B)] Community school administrators are required to complete annual training on public records and open meeting laws. [Ohio Rev. Code § 3314.037]

    Determine whether each elected official[7](or his/her designee) successfully attended a certified three-hour Public Records Training for each term of office. Obtain copies of their certificates of completion and place them in the permanent file for future reference.

    Determine whether each community governing authority member, or community school administrative staff (designated fiscal officer, chief administrative officer, and all individuals performing supervisory or administrative services) completed annual training on public records and open meetings laws.

11. Every public body, by rule, shall 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 and emergency meetings. [Ohio Rev. Code § 121.22(F)]

    a. 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 an emergency requiring immediate official action.
    b. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.

    Determine whether the public office notified the general public and news media of when and where meetings during the audit period are to be held.

12. The minutes of a regular or special meeting of any public body shall be promptly prepared, filed and maintained and shall be open to public inspection. [Ohio Rev. Code § 121.22(C)]

    Determine whether the minutes of public meetings during the audit period were:
    a. Prepared promptly – a file is created following the date of the meeting
    b. Filed – placed with similar documents in an organized manner
    c. Maintained - retained, at a minimum, for the audit period
    d. Open to public inspection – available for public viewing or request.

[7] Elected official does not include judges. See Ohio Rev. Code § 109.43(A)(2).

13. An executive session requires a majority of a quorum by roll call vote at a regular or special meeting for the sole purpose of the consideration of only the following matters: [Ohio Rev. Code § 121.22(G)]

    a. Specified employment matter of public employee/official (excluding elected officials);
    b. Purchase of property for public purpose or sale/disposition of property;
    c. Conferences with an attorney for the public body concerning disputes that are the subject of pending or imminent court action;
    d. Preparing for, conducting or reviewing negotiations or bargaining sessions;
    e. Matters required to be kept confidential by federal law or regulations or state statutes;
    f. Specialized details of security arrangements and emergency response protocols;
    g. Consideration of trade secrets for hospitals;
    h. Confidential information related to marketing plans, business strategy, trade secrets, or personal financial statements of an applicant for economic development assistance.

    Review the minutes from the audit period and determine if executive sessions were only held at regular or special meetings.

    Review the minutes of meetings held during the audit period and the purpose for going into an executive session (when applicable). Confirm the purpose correlates with one of the matters listed in a-h above.

    Determine whether formal governing board actions from the audit period were adopted in open meetings.

Sunshine Law Star Rating System (StaRS):

If the public office implements best practices beyond what is required by law, our office will recognize that achievement. The StaRS level each public office has achieved will be posted on the Auditor of State's website.

StaRS Overview:

A public office MUST be compliant with all the legal requirements listed above to become eligible for consideration for a StaRS Award. To achieve a higher level reflected in the StaRS levels chart below, a public office should adopt the best practices from the list of suggested best practices provided by the AOS (which follows the StaRS chart) to enhance transparency consistent with the spirit of the Sunshine Laws. These procedures and practices ***are not required by law*** but are suggested to help public offices meet and fully address the requirements of the law. Each public office's StaRS level will be based on compliance and the number of best practices implemented.

StaRS Levels:	
★	**Open and Transparent Government** - Meets all Sunshine Law requirements.
★★	**Achievement in Open and Transparent Government** - Implemented 1-2 best practices.
★★★	**Outstanding Achievement in Open and Transparent Government** - Implemented 3-4 best practices.
★★★★	**Highest Achievement in Open and Transparent Government** - Implemented 5 or more best practices.
Non-Compliant	Non-Compliant - Sunshine Law requirements are not fully achieved.

<u>StaRS Best Practices:</u>
To achieve additional success toward a more open and transparent government operation, the AOS suggests the following be implemented; these suggestions are not required by Ohio's Sunshine Laws.

In order to meet each best practice identified below, the public office must address a majority of the elements of that best practice.

1. The public office employs a method to track public records requests. The public office uses a log or similar tracking method. The tracking method should include a majority of these elements. Additionally, a sample log is included in Appendix A of this bulletin.

    a. Date in-person, verbal, written or email request received (date stamp written requests)
    b. Name of Requester (only if voluntarily provided; requests can be under a pseudonym or made anonymously)
    c. Type of records requested
    d. Date requests were fulfilled
    e. Name of person fulfilling request

    Determine whether the public office tracks public records requests and what method is used. Select a sample of five (or total population if less than five) and review the tracking method for evidence of the elements listed above.

2. To assist the public in making a request for records the public office has standard request forms that are available to requestors to use if they wish, as well as for the staff to use when a request is made via phone (Example: Appendix A). The informational fields can include:

    a. The date of the request in order to be tracked.
    b. A description of the records requested (agendas, minutes, resolutions, budgets, etc.).

c. The format the requestor would like the records produced in (paper, electronic, etc.).
d. The method the requestor would like to receive the requested records (in person, via e-mail, standard mail, electronic media, etc.).
e. If the public office has a website, is the form available in order to submit a request on the website, or to download and submit by email, mail, fax or in person.

Determine whether the public office makes available a standard request form for public records requests by mail, in person, or on the phone, and confirm the request form includes a majority of the elements listed above.

3. The public office provides an acknowledgement to the requestor when a public records request is received, consistent with the manner in which the request was made.

   a. The acknowledgement by phone, email or mail provides a "tracking" number (date of request for example) the requestor can reference.
   b. The acknowledgement is recorded in the public records log by date and method that request was submitted to the office.
   c. The acknowledgement should be made in a reasonable period of time to assure requestor their request has been received and is being processed.

   Determine whether and how the public office acknowledges public records requests with a tracking number for requestor. Select a sample of five (or total population if less than five) and confirm that acknowledgements are made/issued within a reasonable period of time.

4. To assist the public in making a request for records, the public office has publicized (website, public records poster, etc.) the name or office title of the records custodian and his/her contact information. Further, the public office's staff has been trained on how to route public records requests to the record custodian, who also has been trained on fulfilling the public records requests, including guidelines for negotiating ambiguous or large requests.

   Review the Public Records Policy to verify the policy identifies the employee or office title of the public records custodian and the contact's telephone number, email and mailing address. Obtain evidence of training received by the public office's staff and public records custodian such as a Certificate of Public Records Training.

5. As tested in #10 of the requirements, all elected officials or their designees shall attend public records training. The applicable required Certified Public Records Training for all elected officials or their designees was completed within the first year of taking office. In addition, community school administrators are required to complete annual training on public records and open meeting laws. The applicable required Certified Public Records Training and the annual training for community school administrators was completed within the first four months of employment.

Determine whether each elected official[8](or his/her designee) successfully attended the required Public Records Training within one year of taking office.

Determine whether each community governing authority member, or community school administrative staff (designated fiscal officer, chief administrative officer, and all individuals performing supervisory or administrative services) completed annual training on public records and open meetings laws within four months of hire.

6. The public office has an online presence and it provides details regarding upcoming events and the operations of the office. Some examples may include:

    a. Agendas of meetings in advance.
    b. Public records policy.
    c. Records retention policy.
    d. Meeting schedule of the public office and any of its committees.
    e. Minutes of all meetings of the public office and any of its committees.

    Confirm on the public office web-page that items are available. For the minutes available for public meetings held during the audit period, confirm the corresponding agendas were published in advance of meetings.

7. The public office has an online presence that provides access to official documents that may be routinely requested by the public or media. Some examples may include, but are not limited to:

    a. Annual Budget
    b. Annual Report
    c. Compensation for Public Officials
    d. Most recent Audit Report
    e. Contact information and hours of various departments

    Confirm on the public office website that items including but not limited to the listed are available.

Questions about this bulletin may be directed to the Auditor of State's Center for Audit Excellence Division at contactus@ohioauditor.gov or at (800) 282-0370.

Keith Faber
Auditor of State

[8] Elected official does not include judges. See Ohio Rev. Code § 109.43(A)(2).

Questions and Answers

Q1: How do I register for online Sunshine Laws training?

A1: Use the following link to register for online training: https://sunshinelaw.ohioattorneygeneral.gov/

Q2: Do I need to participate in the StaRS initiative?

A2: All applicable public offices are required to be compliant with public records laws; however, the best practices model, that will recognize achievements in open government beyond what the law requires, is optional.

Q3: I am a county prosecutor, will my StaRS rating be for only my office or the entire county?

A3: The StaRS rating will be for each public entity (i.e. city, county, etc.). Ratings will not be provided for individual elected officials' offices; however, testing of those individual elected officials' offices will impact the overall StaRS rating for the public entity.

Q4: Will I be penalized for not having an online presence?

A4: An online presence is a suggested best practice; however, it is not statutorily required; therefore, your entity will not receive an audit comment related to an online presence.

Q5: I am a county auditor fulfilling a request for a copy of a map. I am providing a copy at the time the request is made and I am not making any redactions? Am I required to log this request and keep a copy?

A5: In this case, the current public record policy for the specific office as well as the nature of the work the office conducts, would be a factor in determining the need to log and copy the request. As maintaining maps is within the day to day functions of the office, the immediate fulfillment of the request would likely not require this instance to be maintained in the log. In addition, there were no required redactions so the Auditor's recommendation for keeping copies of the response would not apply.

Q6: I am a school district treasurer for a very large school district – does the Auditor's recommended best practices require that my school hire an additional employee to handle all public records requests and maintain the log?

A6: No. Each public office handles its responsibilities under the Act a little bit differently. Some entities do employ a separate public records officer to coordinate and respond to all public records requests. Other entities have several employees, often one in each department/division, that respond to public records requests. Typically, these employees are not employed solely to respond to public records requests. Rather, this is one of several duties that the employee may have. The decision of how to utilize staff and resources is, ultimately, a management decision to be made by each entity. Utilization of the public records log will

work in any environment. In this case, the school may want to assign a point of contact in each building to handle public records requests.

Q7: I run a city building department. Do I need to log requests for applications for a permit and information submitted as part of that application? Do I need to log when I issue a permit?

A7: No. Requests for applications and issuances of permits are outside of the scope of logging recommendations. Public offices, however, may want to log requests for copies of permits if copies are not immediately provided to the requestor. As a best practice, the logging of this request does increase transparency initiatives.

APPENDIX A: Sample Public Records Log

(Name of Agency/Department/Division) Public Records Request:

Date of request:_____

Name (optional):_____

Address (required for mail):_____

City:_____ **State:**_____ **Zip Code:**_____

Phone (optional):_____ **Email (optional):**_____

Description of records:

APPENDIX B: Sample Public Records Log

(NAME OF AGENCY/DEPARTMENT/SUBDIVISION)
LOG OF PUBLIC RECORDS REQUESTS
(PERIOD OF TIME COVERED BY LOG)

	DATE RECEIVED	DATE OF RESPONSE	NAME OF REQUESTING PERSON OR ENTITY	DESCRIPTION OF RECORDS REQUESTED	COPY OF RELEASED RECORDS		EXEMPTION REDACTION		LEGAL AUTHORITY FOR EXEMPTION REDACTION	NAME OF PERSON FULFILLING REQUEST
					YES	NO	YES	NO		
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
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OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State
Bulletin 2020-001

DATE ISSUED:	**February 10, 2020**
TO:	**All Public Offices** **Community Schools**
FROM:	**Keith Faber** **Ohio Auditor of State**
SUBJECT:	**Fraud Hotline**

Ohio Rev. Code §117.103 requires the Auditor of State to maintain a system for fraud reporting, including misuse and misappropriation of public money by any public official or office. The system allows all Ohio citizens and employees of any public office the opportunity to make anonymous complaints through a toll-free telephone number, the Auditor of State's website, a mobile app or through the United States' mail.

The Auditor of State is required to keep a log of all complaints filed. The log is a public record under Ohio Revised Code §149.43 and must contain the following: the date the complaint was received, a general description of the nature of the complaint, the name of the public office or agency with regard to which the complaint is directed, and a general description of the status of the review by the Auditor's office. Information in the log may be redacted if Ohio Revised Code §149.43 or another statute provides an applicable exemption.

Additionally, all public offices, including community schools, must provide information about the fraud reporting system and the means of reporting fraud to all new hires. All new employees must confirm that they received this information within thirty days after beginning employment. Ohio Revised Code §117.103 requires the Auditor of State to confirm during the course of an audit, as provided in Ohio Revised Code §117.11, that public offices have so notified new employees. The statute provides two ways to verify compliance. First, public offices may require new employees to sign forms acknowledging the employees were notified of the fraud-reporting system. The Auditor of State has created a model form, which is appended to this Bulletin and may be found on the Auditor of State website. Alternatively, public offices may consider providing the fraud reporting system information in the employee manual for the public office. The employee should sign and verify the employee's receipt of such a manual.

Finally, Ohio Revised Code §124.341 extends whistleblower protections to employees who file a complaint with the new fraud-reporting system. If a classified or unclassified employee becomes aware of a situation and reports it to the Auditor of State's fraud-reporting system, the employee is protected against certain retaliatory or disciplinary actions. If retaliatory or disciplinary action is taken against the employee, the employee has the right to appeal with the State Personnel Board of Review within thirty (30) days after receiving actual notice of the action. This is the employee's sole and exclusive remedy.

You may direct questions about this bulletin to the Auditor of State's Special Investigations Unit at (800) 282-0370.

Keith Faber
Ohio Auditor of State

Auditor of State's Fraud Reporting System Contact Information

The Ohio Auditor of State's office maintains a system for the reporting of fraud, including misuse of public money by any official or office. The system allows all Ohio citizens, including public employees, the opportunity to make anonymous complaints through a toll free number, the Auditor of State's website, a mobile app or through the United States' mail:

Auditor of State's fraud contact information:

Telephone: 1-866-FRAUD OH (1-866-372-8364)

US Mail: Ohio Auditor of State's office
88 East Broad Street, 10th Floor
Columbus, OH 43215
Attn: Special Investigations Unit

Web: www.ohioauditor.gov then click the drop down Quick Links/Report Fraud Online, email @ fraudohio@ohioauditor.gov

Mobile App: See download instructions below

The following instructions can be used to download the app:

For Apple users:
Visit the Apple App Store via your mobile device or Apple computer and search for *Ohio Stops Fraud*. This app is available for iOS7 users who own the iPhone 4 or later models.

Click here to view the Apple app.

For Android users:
Visit the Google Play Store via your mobile device or computer and search for *Ohio Stops Fraud*.

Click here to install the Android app

Read the app's privacy policy for more information.

Acknowledgement of receipt of Auditor of State Fraud Reporting System information

Pursuant to Ohio Revised Code §117.103(8)(1), a public office shall provide information about the Ohio fraud-reporting system and the means of reporting fraud to each new employee upon employment with the public office.

Each new employee has thirty days after beginning employment to confirm receipt of this information.

By signing below you are acknowledging (insert public employer) provided you information about the fraud-reporting system as described by Ohio Revised Code §117.103(A), and that you read and understand the information provided. You are also acknowledging you have received and read the information regarding Ohio Revised Code §124.341 and the protections you are provided as a classified or unclassified employee if you use the fraud reporting system.

I, _____, have read the information provided by my employer regarding the fraud-reporting system operated by the Ohio Auditor of State's office. I further state that the undersigned signature acknowledges receipt of this information.

_____

PRINT NAME, TITLE, AND DEPARTMENT

_____ _____

PLEASE SIGN NAME DATE

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State
Bulletin 2020-002

DATE ISSUED:	**February 10, 2020**
TO:	**All Public Offices** **Community Schools**
FROM:	**Keith Faber** **Ohio Auditor of State**
SUBJECT:	**Hourly Audit Rates and Allocation of Audit Costs**

Billing Rates

Ohio Revised Code (ORC) 117.13 governs how the Auditor of State's Office charges public offices for the costs for audit services. The total costs of audits, both direct and indirect, are to be recovered by the office. For local governments, these costs are offset by resources available in the Local Government Audit Support Fund and the state General Revenue Fund. For state agencies, these costs take into consideration federal cost recovery guidelines and are offset by resources from the state General Revenue Fund.

The Auditor of State's Office charges local and state entities an hourly rate for audit services in order to recover costs. Prior to House Bill 166 of the 133rd General Assembly, these rates were established by rule, but recent amendments to ORC 117.13 removed the rulemaking authority and instead requires the Auditor to determine and publish annually the rates to be charged to state agencies and local public offices.

For the remainder of FY 2020 or until a subsequent bulletin is published, the following rates are to be charged:

- audit rate charged to local governments is $41/hour,
- audit rate charged to state agencies is $76/hour,
- rate for Local Government Services is $50/hour, and
- rate for interns is 50 percent of the standard rate charged for the services provided.

If you have questions regarding the above billing information, please contact the Finance staff of the State Auditor's Office at (800) 282-0370.

Ability to Charge Funds Other than the General Fund

ORC 117.13 (C)(2) allows fiscal officers of local public offices being audited to allocate the charges billed for the cost of the audit to appropriate funds using a methodology that follows guidance provided by the Auditor of State. The fiscal officer may distribute the cost to each fund audited in accordance with its percentage of the total cost. The fiscal officer should determine which funds should be charged a percentage of the audit costs. The Auditor of State is of the opinion that most operating funds of a local government, including utility funds (i.e., water, sewer, electric, refuse), special levy funds, funds that receive gas taxes, and motor vehicle registration fees can be charged a portion of the audit costs.

Other funds of a local government that may be charged a percentage of the audit costs include bond and grant funds. The ability to charge bond funds will depend on the allowable uses defined in the bond legislation. Trust and other funds that receive donations restricted to specific purposes will require analysis by the fiscal officer of the restrictions imposed by the donor and/or trust agreement to determine if any audit costs may be charged to those funds. Custodial funds (previously referred to as Agency Funds) should not be charged for any share of the cost of an audit for the fiscal officer's role as the fiscal agent.

In determining a percentage of total cost that may be charged to a fund, any reasonable and rational method such as a percentage of the fund's revenue or expenditures compared to the total revenue or expenditures for all funds, excluding custodial funds, would be acceptable. A local government's indirect cost allocation plan may also be an acceptable method for allocating audit costs.

For federal grant funds, the costs of audits are allowable if the audits were performed in accordance with the federal Single Audit Act and Uniform Guidance (UG)[1]. Generally, the percentage of costs charged to federal awards for a single audit shall not exceed the percentage derived by dividing federal funds expended by total funds expended by the recipient or sub-recipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs. Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

If you have any questions regarding the above information, please contact the Local Government Services staff of the State Auditor's Office at (800) 345-2519 or (614) 466-4717.

Keith Faber
Ohio Auditor of State

[1] The costs of audits that are not required by the Single Audit Act or Subpart F are not allowable under 2 CFR 200.425, including performance audits. For more information, refer to questions 1 through 5 presented by the Council on Federal Award Reform (COFAR) on OMB's Uniform Guidance available at: https://cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf.

With the issuance of GASB 95, GASB delayed the effective date of Statement No. 84. As a result, AOS updated their GASB 84 FAQs to communicate timeline changes for fund classifications and budgeting requirements as well as the new regulatory statements.
See also GASB 84 FAQs

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State
Bulletin 2020-003

DATE ISSUED: **February 27, 2020**

TO: **All Public Offices**
Independent Public Accountants

FROM: **Keith Faber**
Ohio Auditor of State

SUBJECT: **Governmental Accounting Standards Board Statement No. 84 – *Fiduciary Activities***

Background Information

The Governmental Accounting Standards Board (GASB) Statement No. 84, *Fiduciary Activities*, includes guidance for identifying fiduciary activities for accounting and financial reporting purposes and how those activities should be reported.

The GASB issued an implementation guide to supplement the guidance found in GASB 84. The Implementation Guide is organized in a question and answer format. This bulletin references specific questions from the Implementation Guide No. 2019-2, *Fiduciary Activities* (IG).

The requirements of this Statement apply to all Ohio state and local governments that prepare GAAP (Generally Accepted Accounting Principles) Statements, including those with a GAAP reporting requirement per Ohio Admin. Code (OAC) §117-2-03(B). Some other governments may be subject to GAAP reporting requirements, such as through a debt covenant. GASB 84 is effective for financial statements for periods beginning after December 15, 2018. Meaning, governments with a December 31 fiscal year end must apply it to their December 31, 2019 GAAP financial statements; school districts and other governments with a June 30 fiscal year end must apply GASB 84 to their June 30, 2020 GAAP financial statements. Guidance from the implementation guide will also be effective at this time. Any local governments that early implemented GASB 84 will also need to apply the guidance from the implementation guide.

Applicability to Non-GAAP entities is addressed later in this bulletin.

Fiduciary Component Units

GASB 84 establishes criteria in paragraphs 6 through 9 for when a component unit is a fiduciary activity. Generally, pension plans that are administered through trusts that meet the criteria in paragraph 3 of Statement 67 and other postemployment benefits (OPEB) plans that are administered through trusts that meet the criteria in paragraph 3 of Statement 74 are legally separate entities. In determining whether those legally separate entities are component units, a primary government is considered to have a financial burden if it is legally obligated or has otherwise assumed the obligation to make contributions to the pension plan or OPEB plan. (GASB 84 ¶7)

GASB 84 paragraph 8 identifies when a component unit, that is not a pension arrangement or OPEB arrangement, is a fiduciary activity.

GASB 84 paragraph 10 explains how to treat pension and OPEB arrangements that are not component units.

Criteria for Fiduciary Activity

For all fiduciary activity not addressed above, the criteria for identifying fiduciary activity is found in paragraph 11 of GASB 84. For activity to be considered fiduciary, it should meet three criteria: the assets are controlled by the government; the assets associated with the activity are not own source revenue or result from nonexchange transactions (with certain exceptions), and the assets must meet one of the remaining characteristics which establish the assets are held in trust or are held for the benefit of individuals, organizations or other governments.

The assets are controlled by the government. (GASB 84 ¶11 a):

A government controls the assets of an activity if the government (a) holds the assets or (b) has the ability to direct the use, exchange, or employment of the assets in a manner that provides benefits to the specified or intended recipients. Restrictions from legal or other external restraints that stipulate the assets can be used only for a specific purpose do not negate a government's control of the assets.

A government uses an asset when it expends or consumes that asset for the benefit of individuals, organizations, or other governments outside of the government's provision of services to them.

When a government appoints a designee to act on its behalf, the designee is performing the government's fiduciary duties and not assuming them. Thus, appointing a designee to act on its behalf does not alter the government's ability to direct the use, exchange, or employment of the assets. (GASB 84 ¶12)

Fiduciary assets are not own-source revenue or result from nonexchange transactions. (GASB 84 ¶11 b):

The assets associated with the activity are not derived either:

1 Solely from the government's own-source revenues, or

2 From government-mandated nonexchange transactions or voluntary nonexchange transactions, with the exception of pass-through grants, for which the government does not have administrative involvement or direct financial involvement.

Note: If custodial funds are receiving revenues from government-mandated nonexchange transactions or voluntary nonexchange transactions, the transaction should be evaluated under GASB 24 to determine if there is administrative involvement or direct financial involvement. This includes undivided state levied shared amounts.

Own-source revenues are revenues that are generated by a government itself. They include exchange and exchange-like revenues (for example, water and sewer charges) and investment earnings. Derived tax revenues (such as sales and income taxes) and imposed nonexchange revenues (such as property taxes) are also included. (GASB 84 ¶13)

For purposes of evaluating administrative involvement and direct financial involvement of a government that is a recipient of a pass-through grant the following definition should be applied:

A recipient government has administrative involvement if, for example, it (a) monitors secondary recipients for compliance with program-specific requirements, (b) determines eligible secondary recipients or projects, even if using grantor-established criteria, or (c) has the ability to exercise discretion in how the funds are allocated. A recipient government has direct financial involvement if, for example, it finances some direct program costs because of a grantor-imposed matching requirement or is liable for disallowed costs. (GASB 24 ¶5 & GASB 84, fn 2)

The assets have one or more of the following characteristics (GASB 84 ¶11 c):

- The assets are (a) administered through a trust in which the government itself is not a beneficiary, (b) dedicated to providing benefits to recipients in accordance with the benefit terms, and (c) legally protected from the creditors of the government. (Note: this is the GASB 84 ¶11 c (1) criteria referred to in some of the following trust fund definitions.)

- The assets are for the benefit of individuals and the government does not have administrative involvement with the assets or direct financial involvement with the assets. In addition, the assets are not derived from the government's provision of goods or services to those individuals.

- The assets are for the benefit of organizations or other governments that are not part of the financial reporting entity. In addition, the assets are not derived from the government's provision of goods or services to those organizations or other governments.

A government has administrative involvement with the assets if, for example, it (a) monitors compliance with the requirements of the activity that are established by the government or by a resource provider that does not receive the direct benefits of the activity, (b) determines eligible expenditures that are established by the government or by a resource provider that does not receive the direct benefits of the activity, or (c) has the ability to exercise discretion over how assets are allocated. A government has direct financial involvement with the assets if, for example, it provides matching resources for the activities. (GASB 84, fn1)

Fiduciary Fund Type Definitions

Pension (and other employee benefit) trust funds: These are used to report fiduciary activities for the following (GASB 84 ¶15):

a. Pension plans and OPEB plans that are administered through trusts that meet the criteria in paragraph 3 of Statement 67 or paragraph 3 of Statement 74, respectively.

b. Other employee benefit plans for which (1) resources are held in a trust that meets the criteria in GASB 84 ¶11 c (1), and (2) contributions to the trust and earnings on those contributions are irrevocable.

Investment trust funds: These are used to report fiduciary activities from the external portion of investment pools and individual investment accounts that are held in a trust that meets the criteria in GASB 84 ¶11 c (1). (GASB 84 ¶16) If the activity does not meet the criteria in GASB 84 ¶11 c (1), it can be evaluated under the custodial fund type definition.

Private-purpose trust funds: These are used to report all fiduciary activities that (a) are not required to be reported in pension (and other employee benefit) trust funds or investment trust funds and (b) are held in a trust that meets the criteria in GASB 84 ¶11 c (1). (GASB 84 ¶17) If the activity does not meet the criteria in GASB 84 ¶11 c (1), it can be evaluated under the custodial fund type definition. (GASB 84 IG 4.41 and 4.42)

Custodial funds: These are used to report fiduciary activities that are not required to be reported in pension (and other employee benefit) trust funds, investment trust funds, or private-purpose trust funds. The external portion of investment pools that are not held in a trust that meets the criteria in GASB 84 ¶11 c (1) should be reported in a separate external investment pool fund column under the custodial funds classification. (GASB 84 ¶18)

Business-type activities, including enterprise funds, may report assets with a corresponding liability that otherwise should be reported in a custodial fund in the statement of net position of

the business-type activity if those assets, upon receipt, are normally expected to be held for three months or less. (GASB 84 ¶19)

Statement of Fiduciary Net Position

Fiduciary funds will present a statement of fiduciary net position to report assets, deferred outflows of resources, liabilities, deferred inflows of resources, and fiduciary net position. The new custodial funds will present net position. (GASB 84 ¶20)

With certain exceptions for pension and OPEB trusts, a liability to the beneficiaries of a fiduciary activity should be recognized in a fiduciary fund when an event has occurred that compels the government to disburse fiduciary resources. Events that compel a government to disburse fiduciary resources occur when a demand for the resources has been made or when no further action, approval, or condition is required to be taken or met by the beneficiary to release the assets. For example, a county government should recognize a liability when it collects taxes for other governments, even though it may not be required to distribute the taxes to those governments until a specified time in the future. Liabilities, other than those to beneficiaries, should be recognized in accordance with existing accounting standards using the economic resources measurement focus. (GASB 84 ¶21)

Statement of Changes in Fiduciary Net Position

The statement of changes in fiduciary net position should be used to report additions to and deductions from pension (and other employee benefit) trust funds, investment trust funds, private-purpose trust funds, and custodial funds. Unless amounts are expected to be held for three months or less, the statement of changes in fiduciary net position should disaggregate additions by source. The statement of changes in fiduciary net position should disaggregate deductions by type and, if applicable, should separately display administrative costs. A single aggregated total for additions and a single aggregated total for deductions can be used for custodial funds when, upon receipt, amounts are normally expected to be held for three months or less. (GASB 84 ¶23 and ¶24)

Types of Activity Currently Found in Agency Funds

The following describes activity currently found in agency funds and explains how that activity will be viewed under GASB 84. Our website contains a GASB 84 Analysis Chart that summarizes how these various types of activity should be maintained on a local government's day-to-day books, and how it should be reported on a Regulatory basis, on Regulatory Statements prepared by a local government that is mandated to prepare GAAP Statements, on an OCBOA basis (GAAP look-alike) and on a GAAP basis.

The Auditor of State's Office (AOS) has historically tried to match fund structure for day-to-day recording to GASB fund definitions. However, with GASB 84, there are some instances where this may generate more complex reporting than may be necessary. Therefore, in some instances, AOS is prescribing a simplified approach for recording for day-to-day cash basis transactions

along with simplified reporting for regulatory filers that are not required to prepare GAAP statements. However, regulatory filers who are mandated to prepare GAAP statements will receive an adverse opinion for not reporting on the proper framework and should not be following this simplified reporting. In the following discussion of the types of activity found in agency funds, the regulatory reporting described applies to regulatory filers who are not mandated to file GAAP statements. Regulatory filers who are mandated to prepare GAAP statements should be following the fund structure as prescribed for GAAP filers.

Amounts held for other Governments/Organizations: Within current agency funds, there are several types of activity that are considered amounts held for other government/organizations, including: (GASB 84 ¶11 c (3))

> ***Fiscal Agent for legally separate organizations:*** If the primary government serves as fiscal agent for a legally separate organization, the activity will be reported as a custodial fund for all types of reporting. However, if this legally separate organization is presented as a component unit of the primary government, the custodial fund will not be shown on the financial statements. A custodial fund and a component unit should not be reported for the same activity. Common examples of legally separate organizations for which a county serves as fiscal agent include: District Board of Health, Family and Children First, Soil and Water Conservation, Regional Planning, among others. Currently, regulatory filers have the option to present component unit activity in the financial statements or report the relationship in the notes. This option will remain unchanged for regulatory filers; however, if they present the component unit, then any fiduciary activity should not be included on the financial statements. (GASB 84 ¶11 c (3))
>
> ***Cash conduit for grants:*** Local governments sometimes receive grants or other financial assistance (including state levied shared monies) to pass on to a secondary recipient. Under GASB Statement No. 24, *Accounting and Financial Reporting for Certain Grants and Other Financial Assistance*, when a recipient government serves only as a cash conduit, the grant is reported in an agency fund. This activity has been reported as an agency fund under GASB 24, and will be reported as a custodial fund under GASB 84 for all types of reporting. Counties currently serve as a cash conduit for distributing certain state-levied shared revenues, including; MVL, Gas Tax, Personal Property Tax Reimbursement, Local government money, Library Local government money, and Homestead and Rollback, among others. This activity will be presented in custodial funds.
>
> ***Clearing account with external participation:*** Local governments will sometimes collect dollars and distribute those dollars to other entities as well as other funds of the government. Under GASB Statement No. 34, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments*, any balances in these funds that pertain to other funds of the government are reported in the appropriate funds rather than in the agency fund. Under GASB 84, this guidance is expanded to include the additions and deductions of the fund as well. These types of clearing funds will present only the amounts related to outside entities. For example the following would meet the

GASB 84 definition of a custodial fund: OHSAA Tournament money with School District's money eliminated; County undivided with all county money eliminated; County court money with all county money eliminated; and Arson Registry [Ohio Rev. Code (ORC) §2909.15]. GAAP filers and OCBOA filers will be following this GASB 84 guidance. Since the local government's money is collected along with the amounts for the other governments, using a custodial fund for these unallocated resources will be allowed to continue on a local government's day-to-day books. Regulatory filers can include their government's resources within in the custodial fund on their financial statements.

Amounts held for Individuals: When dollars are held for individuals, an evaluation will need to be made to determine if the local government has administrative involvement or direct financial involvement. These definitions are included on page 3 of this bulletin. If the local government has administrative involvement or direct financial involvement, the activity will not be fiduciary.

Examples of moneys held where the local government typically has no administrative involvement include money for residents in healthcare facilities and money for inmates in correctional institutions. Although the conclusion of no administrative involvement is typical for these types of accounts, each local government should perform its own evaluation. When there is no administrative involvement or direct financial involvement, the activity will be custodial for all types of reporting.

Examples of money held where the local government has administrative involvement include school district student activity funds (USAS 200 funds). Student activity funds are viewed as being held for individuals. (IG 4.16) Student activity funds are viewed as having school district administrative involvement as the school district has a faculty advisor who approves disbursements (IG 4.20), the school district establishes policies (IG 4.21), and certain policies are established by the State (IG 4.23). School districts should review their 200 funds and reclassify any funds that should not be 200 funds, including amounts held for other governments or organizations. School districts also have administrative involvement when school district employees determine the recipients of college scholarships. When there is administrative involvement or direct financial involvement, the activities will not be fiduciary for any types of reporting.

Own source revenue: Unless an exception is noted below, current agency funds whose revenue source is the government's own source revenue will need reclassified to another fund type for all types of reporting.

Performance bonds and fire trusts (ORC 3929.86): These are part of an exchange transaction and should not be reported as a custodial fund. An exception to this would be if the local government is holding the fire trust money for another political subdivision. Performance bonds include cash received prior to the beginning of a project which is held to ensure satisfactory performance by another party. To simplify reporting, day-to-day books and regulatory filers can continue to report these items in custodial funds.

Retainage: For all types of reporting, retainage is not fiduciary as local governments hold retainage for their own benefit. It arises from an exchange transaction between the local government and the contractor.

Guarantee Deposits: For all types of reporting, guarantee deposits related to utilities are not fiduciary and will continue to be reported with enterprise funds.

Sheriff Money: The sheriff's office has various bank accounts. The accounts will need to be reviewed as these accounts typically include own source revenue.

Marriage License Fee: The portion of the marriage license fee that is collected for the purpose of funding shelters for victims of domestic violence is considered the government's own source revenue. Under GASB 84, these dollars should not be reflected in a custodial fund. This treatment is consistent with AOS Bulletin 2011-004.

Motor Vehicle License Tax: Counties have the ability to levy certain motor vehicle license taxes which the county will review and determine the amount distributed to municipal corporations (ORC 4504.04 and 4504.05) and townships (4504.05). Under GASB 84, these dollars should not be reflected in a custodial fund.

Payroll clearing: Once dollars are withheld from the employee's checks, the local government is obligated to remit the dollars; therefore, there is a liability for these amounts. Under GASB 84, payroll clearing funds are not considered custodial. (GASB 84 IG 4.15) To simplify the reporting for regulatory filers, these amounts can be reflected in a custodial fund. For OCBOA filers, these will not be fiduciary and the balance will need to revert back to the fund that paid the employee and reduce the expenditure. For GAAP filers, these will not be fiduciary and will need to revert back to the fund that paid the employee as cash and payroll withholding payable. As an alternative, these balances can also be brought back to the general fund on a GAAP basis, provided they represent only employee payroll withholdings. The day-to-day reporting of payroll clearing will not change as this is a part of the year end W-2 process.

Also, on a cash basis and for regulatory reporting, whether a payroll clearing account is used can alter the reporting on the regulatory statements. When a payroll clearing account/fund is used, gross payroll is expensed with the withholding held in a separate fund/account until payment is due. When no payroll account/fund is used, net payroll is expensed on the pay date with the withholding expensed when paid (when due). Beginning with financial statements for 2020, regulatory reports will include note disclosure to address this difference.

Clearing accounts with only internal participation: Local governments will sometimes collect dollars and distribute those dollars to other funds of the government. These unallocated resources are held by the local government until the resources can be allocated to the individual funds. For the day-to-day books, these funds will be allowed to continue. To simplify the reporting for regulatory filers, these amounts can be reflected in a custodial fund. For GAAP and OCBOA, these funds will not be presented as their activity is already reflected in the

governmental/proprietary funds of the government. These fund are intended to be temporary and should not be accumulating an ongoing balance. If these funds have any cash balance, this balance will need allocated to the appropriate individual fund. For counties, this category will include the Medicaid Sales Tax Transition Fund.

Flow through clearing fund: These funds are typically used by counties in conjunction with their undivided funds for taxes. When the taxes are ready to be settled, instead of going directly to the local government, they flow from the undivided fund to an entity-type fund (e.g. township, village, school district) and then are distributed to the specific entity. For GAAP and OCBOA these funds will not be presented as their activity is already reflected in other funds of the government. If these funds have any cash balance, this balance will need allocated to the appropriate individual fund.

Funds used for the payment of bills: Some governments use a separate fund to accumulate dollars for the payment of future bills. These are most commonly seen with the employer share of pension. If the fund is a temporary clearing account used for day-to-day operations and routinely zeros out, it will be permissible for day-to-day books. However, if the fund is accumulating a balance, it will be viewed as a set-aside which needs to be authorized by State Statute. Any fund that is being used as a set aside that is not authorized by State Statute, will need to return the balance to the rightful fund with 2021 budget year. For GAAP and OCBOA, these temporary funds will not be presented as their activity is already reflected in the governmental/proprietary funds of the government. If these fund have any cash balance, this balance will need allocated to the appropriate individual fund.

Investment trust funds and private purpose trust funds: Each entity will need to review their trust agreements to ensure they are complaint with the GASB 84 ¶11 c (1) criteria found on page 3 of this bulletin. All types of reporting will need to meet the GASB 84 definition. Any trust funds not meeting this GASB 84 ¶11 c (1) criteria, will need to be reclassified, both for day-to-day reporting and all types of financial reporting.

Applicability to Non-GAAP Entities

Governments that prepare Other Comprehensive Basis of Accounting (OCBOA) statements will need to follow GASB 84 fund definitions and display requirements. Governments statutorily required to prepare GAAP statements that prepare regulatory statements will need to follow GASB 84 fund definitions.

For 2019, governments not statutorily required to prepare GAAP statements that prepare regulatory statements will not need to make any changes to their financial reporting. These governments can use the term agency or custodial to describe their funds.

Effective with 2020 statements, governments not statutorily required to prepare GAAP statements that prepare regulatory statements will be preparing a new Statement of Changes for their Fiduciary Funds. For governments not mandated to prepare GAAP Statements, new accounts have

been established to facilitate the preparation of this new statement. These new accounts can be found in the 2020 updated UAN Accounting and General Manual at:

https://uanlink.ohioauditor.gov/training/accounting/manuals/Accounting_General%20Manual%20Version%202019.2.pdf

Regulatory (not GAAP mandated) filers are following a simplified version of GASB 84 which allows, in certain instances identified above, clearing accounts which allocate dollars to the local government's governmental or proprietary funds to continue to be presented as fiduciary. However, amounts that are allocated to the local government's governmental or proprietary fund should be separately identified in the "Distributions to other funds (primary government" on the financial statements.

Transition

Governments should restate beginning net position/fund balance to conform to the fund definitions contained in GASB 84.

Budgetary Considerations

Custodial funds will not need to be budgeted. Although GASB 84 is effective for 2019 for governments with a December 31st year end, any changes in fund classification will not need to be made to the day-to-day books or budgeted until the 2021 budget year. Schools will need to begin budgeting according to GASB 84 fund classifications for fiscal year 2021.

On the GASB 84 Analysis Chart, the column labeled "Day-to-Day Books/Budgetary" indicates if the fund is considered custodial for budgetary purposes. If this column identifies a fund as custodial, it does not need to be budgeted.

Audit Considerations

As noted in the prior section, any fund classifications will not need made to the day-to-day books or budgeted until the 2021 budgetary year. Therefore, auditors should not issue noncompliance citations for the failure to budget these funds until the 2021 budget year audits. Also, auditors should use professional judgement when determining whether control deficiencies exist in the entity's financial statement framework preparation process when misstatements result from implementation.

Additional Resources Available on the Auditor of State's Website

The Auditor of State's Office has a GASB 84 Analysis Chart, a sample new Statement of Changes, and a Frequently Asked Questions (FAQ) document available related to GASB 84's implementation available on our website at:

www.ohioauditor.gov/references/gasb84.html

The Chart and the FAQs will be updated as additional information becomes available.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact Local Government Services at the Auditor of State's Office at (800) 345-2519.

Keith Faber
Ohio Auditor of State

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State
Bulletin 2020-004

DATE ISSUED:	**April 1, 2020**
TO:	**City Auditors and Finance Directors** **County Auditors and Fiscal Officers** **School District Treasurers** **Educational Service Center Treasurers** **Community School Fiscal Officers** **Independent Public Accountants**
FROM:	**Keith Faber** **Ohio Auditor of State**
SUBJECT:	**Estimating Historical Costs of Capital Assets Using the Consumer Price Index**

Political subdivisions reporting in accordance with Generally Accepted Accounting Principles may have to calculate the historical cost of a capital asset. Listed below is the consumer price index (CPI) for years ranging from 1935 to 2019 that may be used for such calculations. Please note that the base year of the index is "1967" (at 100.0). This should not be confused with the consumer price index used for computing the change in compensation for a variety of local government officials which uses "1982" as its base year.

The formula to compute the estimated historical cost of an asset using the CPI is as follows:

Estimated Current Cost	x	**Index Rate for Estimated Year of Acquisition**	÷	**Index Rate for Current Year**	=	**Estimate Historical Cost**

<u>Example</u>: The estimated or actual year of acquisition of an asset is 1950. The purchase price of the same asset in 2019 is $91,500. The estimated historical cost would be computed as follows:

$91,500	x	72.1	÷	765.8	=	$8,615

CONSUMER PRICE INDEX

2019	765.8	1991	408.0	1963	91.7
2018	752.2	1990	391.4	1962	90.6
2017	734.3	1989	371.3	1961	89.6
2016	719.0	1988	354.3	1960	88.7
2015	710.0	1987	340.4	1959	87.3
2014	709.2	1986	328.4	1958	86.6
2013	697.8	1985	322.2	1957	84.3
2012	687.8	1984	311.1	1956	81.4
2011	673.8	1983	298.4	1955	80.2
2010	653.2	1982	289.1	1954	80.5
2009	642.7	1981	272.4	1953	80.1
2008	644.9	1980	246.8	1952	79.5
2007	621.1	1979	217.4	1951	77.8
2006	603.9	1978	195.4	1950	72.1
2005	585.0	1977	181.5	1949	71.4
2004	565.8	1976	170.5	1948	72.1
2003	551.1	1975	161.2	1947	66.9
2002	538.8	1974	147.7	1946	58.5
2001	530.4	1973	133.1	1945	53.9
2000	515.8	1972	125.3	1944	52.7
1999	499.0	1971	121.3	1943	51.8
1998	488.3	1970	116.3	1942	48.8
1997	480.8	1969	109.8	1941	44.1
1996	469.9	1968	104.2	1940	42.0
1995	456.5	1967	100.0	1939	41.6
1994	444.0	1966	97.2	1938	42.2
1993	432.7	1965	94.5	1937	43.0
1992	420.3	1964	92.9	1936	41.5
				1935	41.1

Additional information can be obtained from the Bureau of Labor Statistics at http://stats.bls.gov.

Questions

If you have any questions regarding the information in this Bulletin, please contact the Local Government Services staff of the State Auditor's Office at (800) 345-2519.

Keith Faber
Ohio Auditor of State

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State
Bulletin 2020-005

DATE ISSUED: **July 9, 2020**

TO: **All Public Offices**
Community Schools

FROM: **Keith Faber**
Ohio Auditor of State

SUBJECT: **Hourly Billing Rates and Allocation of Audit Costs**

Billing Rates

Ohio Revised Code (ORC) 117.13 governs how the Auditor of State's (AOS) Office charges public offices for the costs of audit services. The total costs of audits, both direct and indirect, are to be recovered by the office by charging an hourly rate. For local governments, these costs are offset by resources available in the Local Government Audit Support Fund and the state General Revenue Fund. For state agencies, these costs take into consideration federal cost recovery guidelines and are offset by resources from the state General Revenue Fund.

Audit Rates
For FY 2021 or until AOS publishes a subsequent bulletin, the following audit rates will be charged:

Entity Type	Audit Billing Rate
Local Governments	$41/hour
State Agencies	$79/hour

Local Government Services (LGS) Rates
Additionally, the LGS division of the AOS provides a wide variety of financial reporting compilation, review, consulting and fiscal advisory services to local governments, agencies and schools.

Beginning in fiscal year (FY) 2021, LGS will use a tiered system to charge for financial reporting compilation and review services. AOS will base the tiered LGS billing rates upon a local government's total combined revenues as reported in the most recently audited financial statements.

For FY 2021 or until AOS publishes a subsequent bulletin, the following LGS rates will apply for financial reporting compilation and review services LGS performs for local governments and agencies in each tier:

LGS Billing Rate Tier Structure For Financial Reporting Compilation and Review Services				
	Counties	**Municipalities & Other Local Govts.**	**Schools**	**LGS Billing Rate**
Tier I	$100,000,001 or More	$50,000,001 or More	$50,000,001 or More	$65/hour
Tier II	$50,000,001 – $100,000,000	$10,000,001 – $50,000,000	$10,000,001 – $50,000,000	$60/hour
Tier III	$50,000,000 or Less	$10,000,000 or Less	$10,000,00 or Less	$55/hour

For all other services including, but not limited to: consulting, fiscal advisory and training services, LGS will charge $50/hour, regardless of the size of the local government or its total revenues.

Audit and LGS Rates for Interns
For FY 2021 or until AOS publishes a subsequent bulletin, AOS will charge 50 percent of the applicable billing rate for services provided by AOS interns.

Ability to Charge Funds Other than the General Fund

ORC 117.13 (C)(2) allows fiscal officers of local public offices being audited to allocate the charges billed for the cost of the audit to appropriate funds using a methodology that follows guidance provided by the Auditor of State. The fiscal officer may distribute the cost to each fund audited in accordance with its percentage of the total cost. The fiscal officer should determine which funds should be charged a percentage of the audit costs. The Auditor of State is of the opinion that most operating funds of a local government, including utility funds (i.e., water, sewer, electric, refuse), special levy funds, funds that receive gas taxes, and motor vehicle registration fees can be charged a portion of the audit costs.

Other funds of a local government that may be charged a percentage of the audit costs include bond and grant funds. The ability to charge bond funds will depend on the allowable uses defined in the bond legislation. Trust and other funds that receive donations restricted to specific purposes will require analysis by the fiscal officer of the restrictions imposed by the donor and/or trust agreement to determine if any audit costs may be charged to those funds. Custodial funds (previously referred to as Agency Funds) should not be charged for any share of the cost of an audit for the fiscal officer's role as the fiscal agent.

In determining a percentage of total cost that may be charged to a fund, any reasonable and rational method such as a percentage of the fund's revenue or expenditures compared to the total revenue or expenditures for all funds, excluding custodial funds, would be acceptable. A local government's indirect cost allocation plan may also be an acceptable method for allocating audit costs.

For federal grant funds, the costs of audits are allowable if the audits were performed in accordance with the federal Single Audit Act and Uniform Guidance (UG)[1]. Generally, the percentage of costs charged to federal awards for a single audit shall not exceed the percentage derived by dividing federal funds expended by total funds expended by the recipient or sub-recipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs. Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

If you have any questions regarding the above information, please contact the Local Government Services staff of the State Auditor's Office at (800) 345-2519 or (614) 466-4717.

Keith Faber
Ohio Auditor of State

[1] The costs of audits that are not required by the Single Audit Act or Subpart F are not allowable under 2 CFR 200.425, including performance audits. For more information, refer to questions 1 through 5 presented by the Council on Federal Award Reform (COFAR) on OMB's Uniform Guidance available at: https://cfo.gov/wp-content/uploads/2017/08/July2017-UniformGuidanceFrequentlyAskedQuestions.pdf.

OHIO AUDITOR OF STATE
KEITH FABER

Auditor of State
Bulletin 2020-006

DATE ISSUED: **October 15, 2020**

TO: **School Districts (Athletic Department)**
Agricultural Societies (Ohio Fair Board Managers)

FROM: **Keith Faber**
Ohio Auditor of State

SUBJECT: **Cash Collections – Best Practices**

Bulletin Purpose

This bulletin will provide general background related to the importance of good internal controls, policies, and procedures related to cash collections and deposit requirements, as well as specific guidance related to implementing and managing these controls for school district athletic events and agricultural society events.

Implementation Date

Upon Issuance

General Information

Internal controls, policies, and procedures related to cash collections and deposits are of utmost importance to maintaining the integrity of the public trust and providing the best stewardship of public dollars that are entrusted to local governments/entities. Specifically, local governments/entities are subject to audit requirements set forth by legislation, and conducted/contracted by the Auditor of State of Ohio. As such, these internal controls, policies, and procedures are subject to financial reporting and audit procedures.

In addition to audit implications, internal controls and procedures over cash collections impact all aspects of financial management. The Government Finance Officers Association's (GFOA) Best Practice – Revenue Control Policy recommends governments establish a revenue control and management policy that is annually reviewed and customized for the public office. In developing the policy, the GFOA recommends considering internal controls over cash receipting

such as: segregation of duties, daily processing and timely deposit of receipts (ideally within 24 hours of receipt), and physical security procedures. Accordingly, local governments/entities have a responsibility to establish and implement policies that incorporate control procedures for over-the-counter cash collections.

Best Practices – Cash Collections and Deposits

Policies/Procedures – All local governments/entities should establish policies related to cash collections and deposits, shall follow guidance from Ohio Revised Code Section 9.38 and may seek guidance from a financial institution in establishing such policies. Policies for depositing cash must be approved by the governing board, and most importantly, should include provisions for safeguarding of the cash until it can be deposited with the fiscal officer and/or financial institution or bank. In addition, the fiscal officer should maintain specific procedures governing those processes, and the policies and procedures should be observed by all those collecting and depositing cash on behalf of the local government/entity. Refer to Appendix A and Appendix B for sample policies.

Training and Bonding Considerations – It is highly recommended that all individuals tasked with cash collections and deposits be provided training, specific to the policies and procedures of the local government/entity, in advance of performing the duties. All individuals handling cash, including volunteers, athletic directors and secretaries, should be appropriately bonded and/or insured as provided by the policies of the local government/entity. Fiscal officers may obtain the appropriate bond/insurance from their insurance carrier.

Segregation of Duties – There should be a strong emphasis on segregation of duties, as it is vital to the control process. Segregation of duties is the process in which management divides or segregates key duties and responsibilities among different employees to reduce the risk of error, misuse, or fraud. To put it simply, no one employee should handle every aspect of a transaction. Assigning different people to count cash receipts and reconcile the counts prior to deposit is an example of segregation of duties over cash collections.

Point-of-Sale Cash Collection – Cash Drawer – Over-the-counter receipts typically involve the use of a cash drawer, which may have an allotted amount of "start-up" cash for employees to manually make change for customers. This process is at risk of human error; therefore, overages and shortages in the cash drawer may occur.

"Start-up" cash generally requires withdrawing cash from the bank. The policies and procedures should address who is responsible for cash bank withdrawals and documentation to be maintained, as well as the process to deposit cash at the end of the event. In the case of events requiring large amounts of "start-up" cash, it is recommended, at the conclusion of the event, a separate deposit be made for re-deposit of the "start-up" cash.

There should be a reconciliation procedure for the cash drawer that, at a minimum, provides the totals of the "start-up" cash and collections from sales (refer to the "Ticket Sales Cash

Collections" section below), should balance to the amount in the drawer, and should provide documentation of shortages or overages (refer to the "Cash Collections – Reconciliation" section below).

Expenses/Denomination Exchanges – Employees should not utilize the cash drawer for any reason other than collecting sales receipts. Examples of inappropriate uses are paying expenses, such as paying officials, paying premiums to exhibitors, or purchasing supplies. Policies should include procedures for paying expenses with a pre-authorized amount set aside, which may be in the form of a check or from a petty cash account.

If the cash drawer needs smaller denominations of cash to make change, policies should address the procedures to conduct a denomination exchange, which should involve more than one person counting and witnessing the exchange.

Example: When a cashier's number of five dollar bills is low:

- A request should be made to the office/secure cash location personnel for a denomination exchange;
- The office/secure cash location personnel should send an employee to the cash collection point with two hundred dollars in five dollar bills;
- The office/secure cash location personnel should maintain a log of the date, time, denomination, and amount taken to the gate with the signature of the employee transporting the money;
- The employee should return to the office/secure cash location in a timely manner with two hundred dollars in large bills; and
- A separate office/secure cash location employee should count the cash, and both employees should sign the log, verifying the two hundred dollars has been returned (refer to the "Segregation of Duties" section above).

Ticket Sales Cash Collections – Distinctly colored and pre-numbered tickets are recommended for each type of admission sold as ticket prices are often based on classification of the entrant (i.e., adults, students, senior citizens, etc.). If only one pre-numbered ticket roll is used for multiple ticket rates, ticket takers should track each ticket sale to support the cash reconciliation at the end of the event. At the end of the event, a reconciliation of tickets sold to cash should be performed and the reconciliation, cash to be deposited, and unsold tickets should be returned to the fiscal officer or designee to be safeguarded. Unsold tickets should be inventoried periodically. The following two scenarios are examples to support appropriate documentation of ticket sales:

Scenario 1 – The reconciliation form (described below) includes the first ticket (not sold) and the last ticket (not sold). For example, there are pre-numbered tickets 1–500, and 125 tickets are sold. Ticket #1 and ticket #127 should be attached to the reconciliation to confirm that tickets 2–126 were sold, for a total of 125 tickets.

> *Scenario 2* – The reconciliation form (described below) should have the first and last ticket numbers sold documented. For example, there are pre-numbered tickets 1–500, and 125 tickets are sold. The reconciliation form should reflect the beginning ticket number (1) through ending ticket number (125) to reflect that 125 tickets were sold, and upon submission of the reconciliation, the fiscal officer or designee should confirm that ticket number 126 remains on the ticket roll of unsold tickets.

Entrants that are not required to purchase a ticket at the gate should also be documented on the reconciliation form. Examples include: season ticket holders, complimentary ticket holders and children under an age requiring a ticket. These type of entrants should be documented on a separate form, such as a pass-holder list and/or sign-in form, and documented on the reconciliation, in order to track total entrants.

Cash Collections – Reconciliation – A reconciliation form is used to document the information that supports the amount of cash collected and the cash deposited into the bank account. The information each local government/entity requires on the reconciliation form will vary; however, the reconciliation form should record enough information to support the total of each type of ticket sold, total cash collected, and total cash to be deposited. The reconciliation form should be signed by all parties counting/receiving the cash to be submitted to the fiscal officer (refer to the "Segregation of Duties" section above).

At a minimum, reconciliation procedures and deposits must be performed at the conclusion of the event for each point of collection. For larger and/or multi-day events, reconciliation procedures may be performed multiple times during the day in order to safeguard cash and to prevent large amounts of cash held at each location. These "cash out" reconciliations may occur with a new cash drawer provided for the location and a reconciliation of the current drawer collected. The board policy may include additional details related to requirements of the frequency of the "cash out" reconciliations and deposits. Once the reconciliations are completed, deposits should be prepared (refer to the "Cash Collections – Deposits" section below). Refer to Appendix C for a sample reconciliation form.

Cash Collections – Deposits – The deposit of all cash collections should be in accordance with the board policies and procedures. In the absence of a policy, deposits must be made in accordance with ORC section 9.38 (refer to the "Policies and Procedures" section above). There are various options for safeguarding and depositing of cash. Some options are:

> *Scenario 1* – The cash, completed deposit slip, and completed reconciliation form should be maintained in a safe or other secure location until the items can be turned over to the fiscal officer for deposit into the local government/entity's bank account. The cash submitted for deposit should include the "start-up" cash (refer to the "Cash Drawer" section above) as well as cash receipts collected, as reflected on the reconciliation.

Scenario 2 – The local government/entity may have a drop box location where individuals charged with the responsibility of safeguarding the cash may deposit a secured, locked bag at the conclusion of the event. A fiscal office employee should retrieve the locked bag from the lock box on the business day following the event. The employee should take the locked bag to the bank and open the bag in the presence of a bank teller. The employee and teller should count the cash and verify the amount agrees to the deposit slip. The employee should retain the reconciliation form and a copy of the deposit slip.

Scenario 3 – The local government/entity may use high security deposit bags that are sealed with tamper evident closures once the cash, reconciliation form, deposit slips, and any other documentation are placed inside the bag. The bag seal should not be broken until the deposit is made with the bank. Entities that choose to use high security bags may have policies in place that would permit an employee to make the deposit directly with the bank rather than having the employee deposit the bag with the treasurer's office first.

At the conclusion of the event, a deposit slip should be prepared that balances with the signed reconciliation forms addressed above. All cash should be deposited in accordance with the policy, and the documentation related to shortages or overages should be reviewed and maintained for audit purposes. All documentation related to the deposit and reconciliations should be submitted to the fiscal officer to be reviewed and maintained for audit. The fiscal officer should then post the receipt to the accounting system. The deposit documentation should be traced by the fiscal officer to the bank statement when performing the monthly bank reconciliation. Specific guidance for school districts and agricultural society accounting are as follows:

For school districts, the posting should be in accordance with the Uniform School Accounting System (USAS), with athletic receipts either posted to fund 300 for regular season activities or fund 022 for OHSAA Tournament Activities. OHSAA Tournament activity is also addressed in Auditor of State Bulletin 2013-005.

For agricultural societies, the posting should be in accordance with the Uniform Agricultural Societies Accounting System, using the chart of accounts provided for the specific receipt type.

Additional Fiscal Office Procedures/Considerations

Event Schedules – The fiscal office should maintain a listing of all events, including canceled or rescheduled events, and the number of gates/cash collection points for each event. The fiscal office should ensure a deposit is received for each event and/or individual gate in order to account for all collection points.

Fee Schedule – The fiscal office should ensure the governing board adopts fee schedules for all events since fees may vary by ticket type or event type. Board approved ticket prices should be clearly documented or attached to the reconciliation form prior to the start of the event and provided to the individuals working at the point of collection.

Season Passes – Season passes should be pre-numbered, and records should be maintained regarding sold passes. Unsold passes should be safeguarded and inventoried periodically. The fiscal office should perform a reconciliation of sold passes to deposits to ensure completeness.

Outside Organizations – If outside organizations or groups perform duties involving cash collections on behalf of the local government/entity, the procedures and controls outlined in the established policies must be provided and agreed upon by these organizations/groups. All non-employees must be appropriately bonded or insured by the local government/entity's insurance provider.

Specific to athletic ticket sales, additional considerations for district managed student activity programs are further addressed in the Auditor of State's Guidelines for Student Activity Programs

Specific to agricultural societies, additional considerations related to gambling, wagering, horse-racing, and junior fair board activities are further addressed in the Fair "Redbook" published by the Ohio Department of Agriculture.

Questions

If you have any questions regarding the information presented in the Bulletin, please contact the Center for Audit Excellence at the Auditor of State's Office at (800) 282-0370.

Keith Faber
Ohio Auditor of State

Appendix A – SAMPLE AGRICULTURAL SOCIETY POLICY

DEPOSIT OF PUBLIC FUNDS: CASH COLLECTION POINTS

Monies received at cash collection points must be deposited with the Fiscal Officer in accordance with this policy. Cash collection points are any areas where money flows into the Society. Agricultural societies shall deposit all cash receipts into a society-owned bank account.

A multi-part pre-numbered receipt should be completed for each cash receipt, except for ticket sales. A copy of the receipt shall be given to the person or organization making the payment. The society shall account for each receipt issued or spoiled by accounting for all receipt numbers consecutively. A cash receipt shall be prepared for all cash receipts regardless of whether other documentation evidences receipt (e.g., camping contract).

At the end of Fair week, any start-up cash withdrawals shall be deposited in the bank separately from other receipts. The Fiscal Officer shall verify all start-up cash is redeposited with the bank at completion of the event.

All receipts, including ticket sales, shall be deposited in the bank no later than the day following the date of receipt, unless both of the following conditions apply:

a. Total amount of un-deposited cash receipts is less than $1,000, and

b. As permitted by the society's board of directors' policy, the receipts may be held for up to three days following the date of receipt if established safeguard procedures are in place prior to deposit.

During periods of greater activity, such as the period around fair week, cash should be deposited several times per day, and significant deposits at the end of the day should be deposited in the bank's night depository and not left overnight on the fairgrounds.

Persons who receive money at cash collection points are responsible for its safekeeping until the money is deposited. The money should be secured in a locked desk, file cabinet, safe or other secure room, and it should not be taken home. The Fiscal Officer is directed to develop, distribute, and implement procedures addressing the provision of receipts (where applicable) to the payee(s), and proper segregation of duties for the receipting, depositing, recording, and reporting of cash. These procedures should be particularized to each cash collection point and should include flowcharts as appropriate. The procedures should further address the need for completion of timely bank reconciliations so that "unreconciled differences" can be identified and resolved.

Appendix B - SAMPLE SCHOOL DISTRICT POLICY

DEPOSIT OF PUBLIC FUNDS: CASH COLLECTION POINTS

Monies received at cash collection points must be deposited with the Treasurer in accordance with this policy. Cash collection points are any areas where money flows into the District. Currently identified cash collection points are admission fees to athletic events, lunchroom sales, classroom fees, student activities/fundraisers, and miscellaneous money received by the Treasurer's Office.

Persons who receive monies at cash collection points in the District are required to deposit all monies received on the next business day after the day of receipt, if the total amount of monies exceeds $1,000. If the monies received do not exceed $1,000, the person shall deposit such monies not more than three business days following the day of receipt.

Any start-up cash withdrawals for athletic events, student activities/fundraisers, or other similar events shall be deposited in the bank separately from other receipts. The Treasurer is responsible for verifying all start-up cash is redeposited with the bank at completion of the event.

Persons who receive money at cash collection points are responsible for its safekeeping until the money is deposited. The money should be secured in a locked desk, file cabinet, safe or other secure room on school property, and it should not be taken home. The Treasurer is directed to develop, distribute, and implement procedures addressing the provision of receipts (where applicable) to the payee(s), and proper segregation of duties for the receipting, depositing, recording, and reporting of cash. These procedures should be particularized to each cash collection point and should include flowcharts as appropriate. The procedures should further address the need for completion of timely bank reconciliations so that "unreconciled differences" can be identified and resolved.

Legal R.C. 9.38

Appendix C

ANY LOCAL GOVERNMENT
TICKET RECONCILIATION FORM

Name of Event _____

Date of Event _____

Gate Number / Location of Gate _____ Beginning Drawer Balance _____

Adult Ticket: *Price_____ Color _____ ** Beginning Sequence Number _____

Child Ticket: *Price_____ Color _____ ** Beginning Sequence Number _____

Other Ticket: *Price_____ Color _____ ** Beginning Sequence Number _____

*The Fiscal Office or a designated employee (other than the cashier) should document the Governing Board approved ticket prices on the reconciliation form prior to the start of the event or attach a copy of the approved fee schedule.

** The Fiscal office or a designated employee (other than the cashier) should verify the ticket inventory by insuring the beginning ticket sequence number is the ticket number immediately following the ending ticket number from the previous ticket sold from the ticket roll.

		Beginning		Ending		Total		Price		Total
Adult Ticket:	Sequence Number	_____	through	_____	=	_____	@	_____	= $	_____
Student Ticket:	Sequence Number	_____	through	_____	=	_____	@	_____	= $	_____
Other Ticket:	Sequence Number	_____	through	_____	=	_____	@	_____	= $	_____

Total Expected Sales $ _____

Total Cash in Drawer _____

Less: Beginning Drawer Balance $ _____

Total Cash to be Deposited $ _____

Total Expected Sales should agree to Total Cash to be Deposited.
List the total of any overages or shortages and describe below $ _____

Explanation for Overages/Shortages (differences between total expected sales and total cash to be deposited): _____

_____

_____ _____
Cashier Signature/Date Witness Signature/Date

_____ _____
Manager Signature/Date Fiscal Office Signature/Date