

CHAPTER 3 STEWARDSHIP

Citizens and public officials want and need to know whether governments are handling their funds properly and complying with laws and regulations. Public officials entrusted with public resources are responsible for complying with those laws and regulations. The laws and regulations in this chapter have stewardship considerations that we have deemed significant and therefore require compliance testing.

Important:

1. You can **generally** rotate substantive compliance testing in this Chapter. For example, there are 20 compliance requirements in this chapter. (Not all of them apply to all entity types.) You should divide the applicable requirements approximately in half, and test half of them with each audit.
 - a. This applies to annual and biannual audits.
 - i. For example, if you audited officials' surety bonds for a village's 2008 and 2009 audit and found them to be compliant, you normally can omit this test for the 2010 and 2011 audit.
 - ii. This also applies if AUP were performed in the prior year(s). Auditors should select about half of the applicable steps for testing for the audit. Because of the lesser significance of most Chapter 3 requirements, we require no risk assessment or other documentation supporting the steps selected for testing. (Except auditors should apply b. and c. below.)
 - b. You should **not** rotate / omit a specific compliance test if the prior audit identified noncompliance or if evidence supports an elevated risk of noncompliance for the current audit.
 - c. You should test new Compliance Supplement requirements in the first year of their applicability.
2. If (1) controls exist to help assure compliance with a specific requirement, and (2) you obtain satisfactory results from testing the controls' operating effectiveness you may be able to limit or omit substantive testing of the requirement.
 - a. Some of the requirements in this chapter are more likely to be subject to formal controls than are others.
 - b. The AOS believes it is acceptable to rely on the results of prior audit's tests of controls if auditors apply the proper "updating" procedures. That is, auditors may use the concepts from ~~AU 318.40~~ ~~45~~ AU-C 330.13 -- .14.
 - c. This approach only requires tests of operating effectiveness once every third year, not every third audit.
 - i. However, the auditor must apply procedures in each intervening year to determine whether continued reliance is appropriate. For example, per ~~AU 318.41~~ AU-C 330.14(a), it is inappropriate to rely on a control that has changed since the auditor's last test of its operating effectiveness.
3. Some steps in the chapter include additional guidance about the extent of testing applicable to that specific compliance requirement.
4. Auditors can normally use the extent of testing described in this chapter. However, if auditors identify specific risks related to specific compliance steps in this chapter, working papers should document these risk assessments, whether they be favorable (which may support less testing) or unfavorable (suggesting additional testing).

This *Ohio Compliance Supplement* chapter provides a simplified process for assessing the government’s compliance with these requirements. Auditors can generally complete these tests using inquiry, observation and, occasionally, certain other limited substantive procedures, such as inspection of documents or limited vouching.

As stated above, auditors should divide the steps subject to cycling approximately in half, and budget a similar amount for cyclic tests each audit to avoid audit cost fluctuations every other audit unless the risk of noncompliance warrants testing of these requirements every audit.

The *Sample Questions and Procedures* this chapter presents are merely examples of procedures you might use. You should add to, modify, or omit these procedures as appropriate in the circumstances. If existing control tests or substantive compliance tests satisfy these objectives, the auditor should cross-reference this work to these sections.

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GENERAL**3-1 Compliance Requirement:** Ohio Rev. Code §9.38 - Deposits of public money.

Summary of Requirement: Public money must be deposited with the treasurer of the public office *or* to a designated depository on the business day following the day of receipt. Public money collected for other public offices must be deposited by the first business day following the date of receipt.

For example, a government employee, other than the fiscal officer collecting funds and issuing a receipt, must deposit the funds with the government's fiscal officer on the business day following the day of receipt. As an alternative to depositing the funds with the government's fiscal officer, the employee instead may deposit funds with the government's designated depository on the business day following the day of receipt.

If the amount of daily receipts does not exceed \$1,000 **and** the receipts can be safeguarded, public offices may adopt a policy permitting their officials who receive this money to hold it past the next business day, but the deposit must be made no later than 3 business days after receiving it. If the public office is governed by a legislative authority (counties, municipalities, townships, and school districts), only the legislative authority may adopt the policy. The policy must include provisions and procedures to safeguard the money during the intervening period. If the amount exceeds \$1,000 or a lesser amount cannot be safeguarded, the public official must then deposit the money on the first business day following the date of receipt.

Note: This section does not require the **fiscal officer** to deposit receipts with the designated depository on the business day following the day of receipt, or any other specified time. However, if the fiscal officer is holding significant amounts of cash and checks for an unreasonable period, you should make an internal control recommendation.

Auditors should be aware of this requirement, especially when testing governments with multiple cash collection points. Auditors should consider whether controls over cash collection points are adequate, including whether cash is timely deposited.

Also: Prisoners placing personal phone calls from the phones located in the county and city jails must place collect phone calls. To enable prisoners to place collect calls the County Sheriff and/or the City Police Chief may enter into agreements/contracts with long distance carriers. Often times to attract business, long distance carriers offer incentives such as refunds and/or rebates based on usage. Jail officials and employees must deposit rebates and refunds in accordance with 9.38.

Sample Questions and Procedures:

Note: To enhance efficiencies, we should integrate the tests below with the financial audit tests. We should only cite noncompliance if we determine significant amounts of cash are not deposited within the required time frames.

1. Systems documentation should include collection points receiving significant amounts of cash.
2. When testing cash collections, document the date collected vs. the date deposited to the CFO or the date the "collector" deposited to a designated depository.
3. Read any new contract/agreement between the county sheriff/police chief and his/her long distance carrier. If incentives are granted, review the accounting treatment of the incentives.

Determine if phone contract monetary refunds and or rebates were paid into the treasury in accordance with Ohio Rev. Code §9.38. (We can limit step 3 to every other audit, unless we have reason to believe there may be issues with this.)

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-2 Compliance Requirement: Ohio Rev. Code §121.22 - Meeting of public bodies to be open, exceptions, and notice.

Summary of Requirement: All meetings of any public body (including community schools) are to be open to the public at all times. A member of a public body must be present in person at a meeting open to the public to be considered present or to vote and for determining whether a quorum is present. The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions. [Ohio Rev. Code §121.22(C)]

Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of any emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested immediate notification. [Ohio Rev. Code §121.22(F)]

The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters [Ohio Rev. Code §121.22(G)]:

- (1) The appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or officials, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official licensee, or regulated individual requests a public hearing;
- (2) The purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal private interest is adverse to the general public interest.
- (3) Conducting conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action.
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
- (5) Matters required to be kept confidential by federal laws or rules or state statutes.
- (6) Specialized details of security arrangements and emergency response protocols where disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office.

A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized above. [Ohio Rev. Code §121.22(H)]

Note: Per OAG 2007-019

1. Neither the Ohio Rev. Code nor generally accepted rules of parliamentary procedure require a board of township trustees to vote to approve the minutes of its regular meetings. Except: A board of township trustees may be required by a formal motion of a trustee or the board's rules for meeting procedure to vote to approve the minutes of a regular meeting. When a board of township trustees is required to vote to approve the minutes of a regular meeting, the vote must follow the board's rules for meeting procedure.

2. A board of township trustees is not required by statute to prepare and distribute to the public or media a

written agenda for a regular meeting.

Sample Questions and Procedures:

1. How does your entity notify the general public and news media of when and where meetings are to be held?
2. Determine whether the minutes of public meetings are promptly recorded and available for public inspection.
3. Review the minutes and determine if executive sessions are only held at regular or special meetings.
4. Document that executive sessions are only held for the purposes outlined above.
5. Determine whether all formal governing board actions are adopted only in open meetings.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-3 Compliance Requirement: Ohio Rev. Code §149.43 - Availability of public records¹ [Each type of governmental entity has its own records commission as established in Ohio Rev. Code §149.38 - counties, §149.39 - municipalities, §149.41 – school districts and educational service centers², §149.411 - libraries, §149.412 – special taxing districts, & §149.42 – townships.]

Summary of Requirement: Ohio Rev. Code §149.011(G) defines a “record” for the public records law, as any document, device, or item, regardless of physical form or characteristic, created, received by, or coming under the jurisdiction of any public office which document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office.

Ohio Rev. Code §149.43(A)(1) defines “public record” as any record that is kept by any public office, including, but not limited to, state, county, city, village, township, and school district units (including community schools), except medical records, records pertaining to adoption, probation, and parole proceedings, trial preparation records, usage information (including names and addresses of specific residential and commercial customers of a municipally owned or operated utility), confidential law enforcement investigatory records, records pertaining to abortions by minors (Ohio Rev. Code §2151.85), “security”³ or “infrastructure”⁴ records defined under Ohio Rev. Code §149.433 adoption records (Ohio Rev. Code §3107.42(A)), and records the release of which is prohibited by state or federal law.

All public records shall be promptly prepared and made available to any member of the general public at all reasonable times during regular business hours for inspection. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain⁵ public records in such a manner that they can be made available for inspection. [Ohio Rev. Code §9.01]

Public Records Policies and Posters

Pursuant to Ohio Rev. Code §149.43(E), the Ohio Attorney General shall develop and provide to all public offices a model public records policy for responding to public records requests in compliance with Ohio Rev. Code §149.43 in order to provide guidance to public offices in developing their own public record policies for responding to public records requests in compliance with that section. This model

¹ Ohio Rev. Code Section 3314.03(A)(11)(d) requires that each contract entered into between a sponsor and the governing authority of a community school shall specify that the school will comply with ORC Section 149.43. Therefore, AOS interprets the requirements of ORC Section 149.43 described in this OCS step to be applicable to community schools.

² This statute applies to each city, local, joint vocational, and exempted village school district as well as each educational service center. However, this statute does not apply to community schools. Community schools do not have a statutory records commission.

³ “Security” record is defined as any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference or sabotage; or any records assembled, prepared or maintained by a public office or public body to prevent, mitigate or respond to “acts of terrorism.” [Ohio Rev. Code §149.433]

⁴ “Infrastructure” record is defined as any record that discloses the configuration of a public office’s critical systems (e.g., communication, computer, electrical, mechanical, ventilation, water, plumbing, etc.) of the building in which the public office is located. Simple floor plans are not included in this definition. [Ohio Rev. Code §149.433]

⁵ Maintaining official records includes recording or copying to reduce storage space by any means which correctly and accurately reproduces, or provides a medium of copying, or reproducing, the original record [Ohio Rev. Code §9.01]. Therefore, scanned documents are considered properly maintained as long as they can be accurately reproduced.

policy is available at:

<http://www.ohioattorneygeneral.gov/files/Publications/Publications-for-Legal/Sunshine-Laws/Model-Public-Records-Policy.aspx>

Pursuant to Ohio Rev. Code 149.43(B)(2), the entity shall have available a copy of its current records retention schedule at a location readily available to the public. The auditor of state, in the course of an annual or biennial audit of a public office pursuant to Ohio Rev. Code Chapter 117 shall audit the public office for compliance with this section and divisions (B) and (E) of Ohio Rev. Code §149.43. [Ohio Rev. Code §109.43(G)] The Auditor of State must ensure compliance with public records policy provisions.

Every public office must have a policy in place for compliance with Public Records Laws. There are three specific items that public offices cannot have in their public records policies. They policy cannot: (1) limit the number of public records it will make available to a single person; (2) limit the number of public records it will make available during a fixed period of time; or (3) establish a fixed period of time before it will respond to a request for inspection/copying of public records unless that period is less than eight hours. However, pursuant to Ohio Rev. Code 149(B)(7), the policy may limit the number of responses delivered by U.S. Mail to ten per month unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, “commercial” shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research. All public offices are required to distribute their Public Records Policy to the employee who is the records custodian/manager of otherwise has custody of the records of that office. Per Bulletin 2007-014, AOS will require written evidence that the records custodian/manager acknowledged receipt of a copy of the policy.

By September 29, 2007, all public offices were required to create a poster describing its public records policy. In addition, the public office is required to post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. Finally, if the public office has an employee policies and procedures manual or handbook, it is required that the public records policy be included in such manual or handbook. [Ohio Rev. Code §149.43(E)(2)] The AOS will require that: (1) the public office created a poster to describe its Public Records Policy; (2) the poster containing the policy has been posted in required locations; and (3) the policy has been included in the employee manual/handbook.

Destruction of Public Records

Any application or schedule for the destruction of records must be sent to the Ohio Historical Society for review to determine whether any of the records are of historical value [Ohio Rev. Code §149.39] Once reviewed by the Ohio Historical Society, the applications are then forwarded to the Ohio Auditor of State’s Office, General Services Department for final approval. [The following governments have separate records commission requirements: Ohio Rev. Code §149.38 - counties, §149.39 - municipalities, §149.41 – school districts and educational service centers⁶, §149.411 - libraries, §149.412 – special taxing districts, & §149.42 – townships.]

Public Records Training

⁶ This statute applies to each city, local, joint vocational, and exempted village school district as well as each educational service center. However, this statute does not apply to community schools. Community schools do not have a statutory records commission.

All state and local elected officials⁷, or their designees⁸, must attend at least 3 hours of training on Ohio's Public Records Laws during each term of office. [Ohio Rev. Code §109.43(B) & §149.43(E)(1)] The training received must be certified by the Ohio Attorney General. Proof that training has been completed must include documentation that either the Attorney General's Office or another entity certified by the Attorney General provided the training to the elected official, or his/her designee. Attendees who successfully complete the training will receive a certificate to serve as proof of training.

Refer to AOS Bulletins 2007-014 and 2011-006 for additional information pertaining to Ohio Public Records Law.

Sample Questions and Procedures:

Unless the prior audit detected noncompliance:

- You can limit steps 1-7 to years in which the auditee adopted or changed its policy.
- You can limit steps 8 and 9 to every other audit. The working papers should document whether we tested this in the prior audit.

Ascertain if responsible personnel are aware of the above requirements and have implemented local policies and procedures regarding:

1. What records are made available.
2. Times when records may be reviewed.
3. Costs for copies to be made.
4. Obtain the entity's Public Records Policy and scan it to be sure that the policy does not limit the number of responses that will be made to a particular person, or 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.
5. Ascertain whether the entity's policy was included in policy manuals, and displayed conspicuously in all branches of the public office. As part of this process, determine whether written evidence exists that the Public Records Policy was provided to the records custodian/manager.
6. Ascertain whether the entity's policy for records retention (note: this is not the same policy as the public records policy) includes provisions for the application or schedule for destruction of public records, including transmission to the Ohio Historical Society and approval by the Auditor of State's Office.
7. Ascertain whether the entity has a records retention policy readily available to the public.
8. Determine whether each elected official, or his/her designee, has 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. For county auditors,

⁷ Includes officials elected to local or statewide office, but does not include: justices of the Supreme Court, court of appeals, common pleas, municipal court, county court, or a clerk of any of those courts.

⁸ Designees must be employees in the public office and there must be evidence of the designation. If there is more than one elected official in the public office, the designee should be the designee for all of the elected officials within the office.

confirmation can be obtained by reviewing the County Auditor Continuing Education Status Report available under IPA resources located at: <http://www.ohioauditor.gov/resources/ipa>.

9. If a designee attended the course, determine whether the designee was an employee of the public office and obtained evidence of the designation.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Only test the compliance attributes listed in 3-4 below if one of the officials listed below were selected as part of your sample for payroll testing.

3-4 Compliance Requirements: Ohio Rev. Code:

Schools:

§3311.19 and 3313.12 - School board compensation and mileage
 §3314.02(E)(4) - Compensation of School Board⁹
 §3314.03(A)(11)(i) - Compensation of School Treasurer
 §3313.24 - Compensation of School Treasurer¹⁰
 §3319.01 - Appointment and duties of superintendent (including compensation)
 §3319.02 - Appointment of other (school) administrators, evaluation; renewal; vacation leave
 §3319.08 - Teacher employment and reemployment contract
 §3319.10 - Employment and status of substitute teachers
 §3319.081 - Contracts for non-teaching employees
 §3319.0810 - Contracts for transportation staff
 §2921.43(A)(1) and Ohio Ethics Commission Op. No. 2008-01 – Compensation of school employees by outside organizations¹¹

Courts:

§141.04 and 141.05 - Compensation of judges (court of common pleas, including probate court judges)
 §2151.13 - Employees; compensation (courts).
 §1907.16 and 1907.17 - Compensation of (county court) judges

⁹ ~~Effective 9/29/11, HB 153 repealed the compensation requirements for members of the governing authority of a start up community school under Ohio Rev. Code §3314.025. Instead, HB 153 authorizes, Under Ohio Rev. Code §3314.02(E)(4), start-up school governing authorities to provide by resolution for compensation of their members, provided that an individual is compensated no more than \$425 per meeting or a total of \$5,000 per year for all of the governing authorities on which the individual serves. Compensation for governing authority members generally must be paid by the community school's fiscal officer from the school's operating funds. However, in the case of a school managed by an operator, the compensation must be paid by the operator from fees paid to it by the school. A new start-up school means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.~~

¹⁰ ODE has indicated that, under Ohio law, treasurers must account for/administer all school district funds and accounts. In addition, Ohio law states that a treasurer's salary must be fixed and payable from the General Fund. Therefore, in the absence of an ODE-approved indirect cost allocation plan, it is not permissible to charge various State and/or Federal programs for supplemental compensation related to the Treasurer's statutory duties associated with these programs. Any such charges are unallowable under Ohio law and OMB Circular A-87 (2 CFR 225, Appendix A, part C.1.c) because in order for a Federal program cost to be allowable, it must be authorized or not prohibited under State or local laws or regulations. These charges may also qualify as supplanting under Federal guidelines if supplement not supplant provisions accompany the particular Federal award(s) being charged. However, if the treasurer can prove that he/she was assigned to non-treasurer duties and was compensated additionally for those, then we will not take exception to the compensation.

¹¹ Ohio Ethics Commission Opinion No. 2008-01 prohibits a school employee (including coaches, teachers, administrators, supervisors, district officials, management level employees regardless of his or her duties) from being compensated for services provided for a school-related activity by any source other than the employing school. That is, booster groups and school support organizations are prohibited from promising or providing any compensation to a school employee for performing their duties at a school or school-related activity. This opinion applies to officials and employees of all school districts, educational service centers (ESCs), and community schools operating under Ohio Rev. Code §3314.03.

§2303.03, 2501.16, and 2501.17 - Officers and employees (courts of appeals)
 §1907.20 - Clerks (court of common pleas)
 §1901.11 - Compensation of judges (Municipal Court)
 §1901.31 and 1901.32 - Clerks; deputy clerks; bailiffs (Municipal court)
 §141.04 (A) (3) - Compensation of judges (appellate court judges)

Libraries:

§3375.32 - Meeting of boards of library trustees; organization; election of clerk; bond.
 §3375.36 - Treasurer of library (deputy clerk)
 §3375.40 - Powers of boards of library trustees (compensation of employees)

Municipalities:

§731.07, 731.08, and 731.13 and 1973 Op. Atty Gen. No. 73-063 and 1983 Op. Atty Gen. No. 83-036 - Compensation (municipal officials)

Counties:

Chapter 325 - Compensation of county officials: auditor, 325.03; treasurer, 325.04; sheriff, 325.06; common pleas clerk, 328.08; recorder, 326.09; commissioners, 325.10; prosecutor, 325.11; engineer, 325.14; coroner, 325.15; vacation and holiday pay, 325.19; Op. Atty Gen No. 99-033 – in-term increase in compensation based on change in population according to decennial census (see Auditor of State Bulletin 99-015).

Townships:

§505.24 (trustees)¹² (see also compliance requirement **3-18**), 505.60 (insurance - also see compliance requirement **3-18**, 507.09 (clerk)¹³ - compensation for township officials, and 505.71 – compensation for joint ambulance district trustees. Also, 1999 Op. Atty Gen. No 99-015 – Definition of “budget” for purposes of compensation (see Auditor of State Bulletin 99-008).

County Hospitals:

§339.03 - Board of county hospital trustees; powers and duties
 §339.06 - Compensation - county hospital administrator and employees

Municipal Hospitals:

§749.33 - Employment and compensation of superintendents, physicians, and employees (municipal hospitals)

Ohio State University [§3335.02(A)], Ohio University [§3337.01(A)], Miami University [§3339.01(A)], Bowling Green and Kent State Universities [§3341.02(E)], Central State University [§3343.05], Cleveland State University [§3344.01(A)], Wright State University [§3352.01(A)], Youngstown State University [§3356.01], University of Akron [§3359.01(A)], University of Toledo [§3364.01(A)],

¹² ~~Effective 9/29/11 under HB 153,~~ Each salaried township trustee shall certify the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed. Refer to AOS Bulletin 2011-007 for examples and further guidance.

¹³ ~~Effective 9/29/11 under HB 153,~~ A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed. Refer to AOS Bulletin 2011-007 for examples and further guidance.

University of Cincinnati [§3361.01(A)], Shawnee State University [§3362.01(A)], Community College Districts [§3354.06], Technical Colleges [§3357.06], State Community Colleges [§3358.03], University Branch Districts [none specified]. - Compensation of trustees.

Summary of Requirement: All of these various sections set out authority for appointing and/or compensating officials and employees of the various entities. For additional information and salary schedules for elected officials, see the *Elected Officials' Compensation Exhibit 4* in the OCS Implementation Guide.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Auditors should consider whether governments have historically demonstrated effective internal controls over payroll. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with compensation compliance requirements.

Sample Questions and Procedures:

Except for the two requirements described below, tests of payroll disbursement should normally address these requirements. You should include a few payments to elected officials in these tests. For those officials, agree their pay rate to OCS Compensation Exhibit amounts. Officials who have a salary set by statute, cannot receive PERS pick up if the additional compensation (in the form of PERS pickup) would result in receiving total compensation greater than the statutory limit. Therefore, we should calculate salary plus PERS pickup, if applicable, and compare this total compensation to the statutory limit. Compensation amounts exceeding the statutory limit should be findings for recovery if they meet the threshold guidelines.

- For community schools, inquire whether its board members also serve on the boards of other community schools. If so, inquire how the community school assures it is not paying these board members more than the statutory limit. (See the requirement described in the footnote above per Ohio Rev. Code §3314.02(E)(4).)
- Per the footnote above regarding school treasurer compensation, compare total compensation per the payroll register to the amount in the treasurer's contract. If the register reports compensation exceeding the contract amount, determine if these payments were allowable per the footnote above.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

~~3-5 Compliance Requirements: Ohio Rev. Code Sections 135.14(B)(7), 135.142, 135.22, 135.35, 319.04, 321.46 and 733.27 Education Requirements-(See 2-18)~~

Summary of Requirements:

Subdivision Treasurers¹⁴

~~Subdivision treasurers must complete annual continuing education programs provided by the Treasurer of State (TOS). The TOS issues certificates indicating that the treasurer has successfully completed the continuing education program.~~

~~The continuing education requirement does not apply to a subdivision treasurer who annually provides a notice of exemption to the Auditor of State, certified by the Treasurer of State (and confirmable through the TOS searchable database weblink below) that the treasurer is not subject to the continuing education requirements because the treasurer invests or deposits public funds in the following investments only:~~

- ~~(1) Interim deposits pursuant to § 135.14 (B)(3);~~
- ~~(2) STAR Ohio pursuant to § 135.14(B)(6);~~
- ~~(3) No load money market mutual funds pursuant to § 135.14 (B)(5)~~

~~Specific requirements apply to the officials listed below:~~

County Treasurers

~~Newly elected treasurers must complete education programs (26 hours) approved by the Auditor of State (13 hours) and the Treasurer of State (13 hours) between December 1 and the first Monday in September following that person's election [Ohio Rev. Code §321.46]. For instance, a treasurer elected in November 2008, taking office in 2009, would be required to receive the initial 26 hours of training between December 1, 2008 and September 2009. In this example, the newly elected treasurer would complete one year in office in September 2010 and would then enter into the biennial cycle for 2011/2012 for continuing education.~~

~~After completing one year in office, a county treasurer must take not fewer than 24 hours of continuing education approved by the Auditor of State (12 hours) and the Treasurer of State (12 hours) in each *biennial cycle* commencing the January 1 after the treasurer's first year in office. County treasurers may carry forward up to six hours received from the Auditor of State plus up to six hours received from the Treasurer of State in excess of 24 from the current to the next biennial cycle. [Ohio Rev. Code §321.46] The biennial time periods are:~~

- ~~➤ January 1, 2009 to December 31, 2010~~
- ~~➤ January 1, 2011 to December 31, 2012~~
- ~~➤ January 1, 2013 to December 31, 2014~~

~~Auditors should wait until the expiration of the applicable biennial time period to determine whether *existing treasurers* (as opposed to those *newly elected*) have completed the continuing education requirements.~~

¹⁴~~A treasurer of an agricultural society must comply with the continuing education requirements of ORC 135.22. The treasurer meets the definition of "treasurer" in ORC 135.22 (which refers to the definition in ORC 135.01) which is as follows: (M) "Treasurer" means, in the case of the state, the treasurer of state and in the case of any subdivision, the treasurer, or officer exercising the functions of a treasurer, of such subdivision. In the case of a board of trustees of the sinking fund of a municipal corporation, the board of commissioners of the sinking fund of a school district, or a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer, such term means such board of trustees of the sinking fund, board of commissioners of the sinking fund, or board of directors or trustees.~~

A treasurer who fails to complete the **initial** education programs required by §321.46 cannot invest and is *subject to removal from office*. Investment authority transfers immediately to the county investment advisory committee.

A treasurer who fails to complete the **continuing** education programs required by §321.46 is restricted to investing in STAR Ohio, no load money market mutual funds pursuant to §135.14 (B)(5) and §135.35(A)(5), or in certificates of deposit pursuant to Ohio Rev. Code §135.35(A)(6), or savings or deposit accounts pursuant to Ohio Rev. Code §135.35(A)(6). A county treasurer who has failed to complete the continuing education programs and invests in other than these investments is subject to removal from office.

Village Fiscal Officers

Must attend annual training programs for new village fiscal officer *and* annual continuing education programs provided by the Auditor of State [Ohio Rev. Code §733.27]. (The Auditor of State interprets this section as requiring a newly elected fiscal officer to attend the new fiscal officer's training offered by the Auditor of State between December 1 and the following February 15, and any other annual training offered by the Auditor of State. Continuing fiscal officers must attend the annual update sessions only.)

All Local Governments

No investment shall be made in commercial paper or bankers acceptances unless the following have completed additional training for making those investments. The type and amount of additional training shall be approved by the Auditor of State:

- School treasurer [135.142(B)]
- County investing treasurer¹⁵ [135.35(A)(8)]
- For other local governments: Treasurer or governing board [135.14(B)(7)]

TOS CPIM Confirmation and FAQ's

The Treasurer of State's website includes an online searchable CPIM report database¹⁶ of treasurers receiving TOS approved certifications and exemptions. The link to this website is: http://stateofohio-web.ungerboeck.com/ceu/ceu_lookup.aspx. However, the TOS website does not include CPIM for AOS-approved courses for county treasurers. Auditors should refer to the Continuing Education Hours Report under *County Treasurer's* box on the AOS website at <http://www.ohioauditor.gov/services/lgs/CountyTreasurers/ContinuingEducationHoursReport.pdf> to obtain a listing of AOS-approved CPIM received by county treasurers.

Auditors can also refer to AOS/TOS Frequently Asked Questions (FAQ's) regarding training requirements for county and local subdivision treasurers on our website listed as *Training Requirements for County Treasurers* or as *Training Requirements for Treasurers of Subdivisions* at: <http://www.ohioauditor.gov/conferences/default.htm>.

¹⁵ Ohio Rev. Code §135.35(A)(8) applies to the investing authority. However, the treasurer is the investing authority, except in the rare circumstance county commissioners determine a treasurer is not complying with county policies, per Ohio Rev. Code §135.34.

¹⁶ Note: The reliability of the TOS online CPIM search results may be affected by the accuracy of information entered into the database. Therefore, auditors may still need to inquire with local treasurers regarding CPIM certifications if discrepancies are identified using the online database.

Sample Questions and Procedures:

~~For counties, please show me your certificates of completion for the last biennial period. (Note: For efficiencies, auditors may be able to obtain these certifications using the weblink above for the Treasurer of State and the Auditor of State).~~

~~For other subdivisions, please show me your annual certificates of completion. (Note: For efficiencies, auditors may be able to obtain these certifications using the weblink above for the Treasurer of State and the Auditor of State).~~

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-6 Compliance Requirements and Summaries Thereof:

Ohio Rev. Code §9.03 - Political subdivision newsletters and other means of communication.

No governing body of a political subdivision shall use public funds to publish, distribute, or communicate information that supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue. In addition, no public funds shall be used to compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described above. However, public funds may be used to publish information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue. Public funds may also be used to compensate an employee for attending a public meeting to present such information in such a manner even though the election, levy, or bond issue is discussed or debated at the meeting.

However, this Section specifically exempts Alcohol Drug Addiction and Mental Health (ADAMH) Boards from the prohibition against using public funds to support a levy or a bond issue. ADAMH Boards are specifically authorized by Ohio Rev. Code Sections 340.03(A)(7) and 340.033(A)(12) to use their public funds to obtain further financial support for their activities.

Ohio Rev. Code §124.57 - Political activity prohibited.

This section imposes restrictions upon the political activity of employees in the classified service of the State, counties, cities, city school districts, and civil service townships.

Ohio Rev. Code §124.59 - Payment for appointment or promotion prohibited.

Applicants for appointment or promotion in the classified service shall not pay for appointments or promotions.

Ohio Rev. Code §124.61 - Abuse of political influence.

Public officials (or potential public officials) shall not use or promise to use, any official authority or influence in order to secure or aid any person in securing any office or employment in the classified service, or any promotion or increase of salary therein, as a reward for political influence or service.

Ohio Rev. Code §3315.07 (C) - Support of school ballot issues.

No board of education shall use public funds to support or oppose the passage of a school levy or bond issue or to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy or bond issue election. However, the law specifically allows a school board to allow its employees to attend public meetings during working hours to give informational presentations regarding the district's finances and activities, even if the purpose of the meeting is to debate the passage of the school levy or bond issue.

Sample Questions and Procedures:

1. Inquire if the CFO is aware of these requirements and what controls the entity has established to prevent violations. Controls should include:
 - Policies or published notifications to employees regarding these requirements.
 - A requirement for a person knowledgeable of these requirements to review and approve payment requests.
2. Inquire if the CFO is aware of any possible violations. If so, or if other evidence comes to your attention suggesting violations may have occurred, investigate the allegations as needed.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-7 Compliance Requirement:

General

Ohio Rev. Code §3.06 - Unless other statutes prescribe a bond for a particular officials (such as for the officials listed in OCS Bonding Exhibit 2 of the OCS Implementation Guide), Ohio Rev. Code §3.06(B) permits “. . . any department or instrumentality of the state or any county, township, municipal corporation, or other subdivision or board of education or department or instrumentality thereof, may procure a blanket bond from any duly authorized corporate surety covering officers, clerks and employees, other than. . .” treasurers or tax collectors and any officer, clerk or employee required by law to execute or file an individual official bond to qualify for office or employment.

Ohio Rev. Code §3.06 also requires “Any such blanket bond shall be approved as to its form and sufficiency of the surety by the officer or governing body authorized to require it.”

Ohio Rev. Code §3.30 - Failure to give bond deemed refusal of office.

A number of specific bonding requirements have been prescribed by statute for various public officers and employees. See *OCS Implementation Guide Exhibit 2 - Bonding* for the requirements applicable to county, city, township, school, and library officials.

Universities (all universities listed below require Attorney General approval of their bonds unless otherwise indicated):

Ohio State University [§3335.05], Ohio University [none specified], Miami University [none specified], Bowling Green and Kent State Universities [§3341.03], Central State University [§3343.08], Cleveland State University [§3344.02], Wright State University [§3352.02], Youngstown State University [§3356.02], University of Akron [§3359.02], University of Toledo [§3364.02, which does not require Attorney General approval, effective July 1, 2006], University of Cincinnati [§3361.02], Shawnee State University [§3362.02, which does not require Attorney General approval, effective September 29, 2005], Community College Districts [none specified], Technical Colleges [none specified], State Community Colleges [§3358.06], University Branch Districts [§3355.051].

These compliance requirements apply to all state universities except Ohio and Miami Universities and the Medical College of Ohio at Toledo, and are also not specified for certain other types of institutions. If a deficiency is noted for institutions not listed above, treat it as a potential management comment rather than a noncompliance finding.

Community Schools

Ohio Rev. Code §3314.011 - Every community school established under this chapter shall have a designated fiscal officer. The Auditor of State may require by rule (see OAC 117-6-07 below) that the fiscal officer of any community school, before entering upon duties as the fiscal officer of the school, execute a bond in an amount and with surety to be approved by the governing authority of the school, payable to the state, conditioned for the faithful performance of all the official duties required of the fiscal officer. Any such bond shall be deposited with the governing authority of the school, and a copy thereof, certified by the governing authority, shall be filed with the county auditor.

Ohio Admin. Code § 117-6-07 requires a community school fiscal officer to execute a bond prior to entering upon the duties of the fiscal officer as provided for in Ohio Rev. Code §3314.011. The governing authority prescribes the bond amount and surety by resolution.

Summary of Requirement: These sections provide requirements for bonding certain public officials and employees.

Sample Questions and Procedures [See the *OCS Implementation Guide Bonding Exhibit* for details of requirements applicable to county, city, township, school, and library officials.]:

1. How do you determine who is required to be bonded?
2. Do you have blanket bonds on officials or employees? How do you determine whether employees are eligible for such blanket bonding?
3. If the amount of the bond is not specified by statute, inquire how the government determined whether amounts of the bonds are commensurate with the duties of their office, i.e., amount of funds for which the individual is responsible, limits of liability, etc. If the bond seems unreasonable, consider issuing a management comment.
4. Please show me a few representative bonds.

Government Personnel Interviewed and Dates:
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Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

COMMUNITY SCHOOLS

3-8 Compliance Requirement: Ohio Rev. Code §3314.08(J) Foundation anticipation notes.

Summary of Requirement: A community school may borrow money to pay any necessary and actual expenses in anticipation of State Foundation receipts. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the school may lawfully expend the anticipated foundation receipts. [Ohio Rev. Code Ohio Rev. Code § 3314.08(J)(1)(a)]

A community school cannot issue debt secured by taxes. [3314.08(H)]

A school may also borrow money for a term not to exceed fifteen years to acquire facilities. [Ohio Rev. Code Ohio Rev. Code §3314.08(J)(1)(b)]

Sample Questions and Procedures:

By reading the minutes, inspecting receipts journals, or by inquiry determine whether or not the School issued any type of debt.

Examine disbursements made of the proceeds to determine that they were used only for the purposes described in the debt agreement.

Determine that moneys borrowed to acquire facilities are for a term of fifteen years or less, and were not collateralized by taxes.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

COMMISSARIES

3-9 Compliance Requirement: Ohio Rev. Code Sections 307.93(F), 341.25, 753.22, and 2301.57 - Establishment and accounting treatment for commissaries.

Summary of Requirements: Commissaries may be established by a sheriff of a county jail, the director of public safety or the joint board that administers a municipal or municipal-county workhouse, the director of a community-based or district community-based correctional facility, or the corrections commission of a multicounty, municipal-county, or multicounty-municipal correctional center. Once a commissary is established, all persons incarcerated must be given commissary privileges. In addition, the commissary fund rules and regulations for the operation of the commissary must be established by the person establishing the commissary for the correctional facility. The commissary fund must be managed in accordance with the procedures established by the Auditor of State's Office, which are included in **Auditor of State Bulletin 97-011**¹⁷. The revenue generated in the commissary fund in excess of operating costs is considered profit. The profits must be expended for the purchase of supplies and equipment, life skills training, education and/or treatment services for the benefit of persons incarcerated in the correctional facility.

Sample Questions and Procedures:

1. Please show me your commissary funds rules and regulations. Who established these rules and regulations?
2. Did you review AOSAB 97-011 to determine if your policies and procedures require updating?
3. Scan selected expenditures from this fund. Determine that expenditures were for the benefit of those incarcerated (see list of acceptable expenditures above). Note: We do not require high levels of assurance from this procedure. Therefore, the sample sizes we require to obtain high assurance do not apply. Scanning alone should normally be sufficient, unless we have reason to suspect there are significant control or compliance issues.

Government Personnel Interviewed and Dates:
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Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

¹⁷ AOS Bulletin 97-011 permits correctional facilities to issue a check to an inmate for the balance of the inmate's commissary account. Contrary to AOS Bulletin 97-011, Ohio Rev. Code Section 341.25 also permits profits from the commissary fund to be used to pay salary and benefits for employees of the sheriff who work in or are employed for the purpose of providing service to the commissary. Therefore, auditors should consider these items to be allowable costs of the Commissary Fund. The Auditor of State will also permit correctional facilities to develop reasonable policies and procedures for the use of debit cards, in lieu of a check, when disbursing remaining balances, less amounts owed to the correctional facility, of inmate commissary funds.

COURTS

3-10 Compliance Requirement: Ohio Rev. Code §2335.34 - Lists of unclaimed costs. Ohio Rev. Code §2335.34-35 - Disposition of unclaimed fees and costs.

Summary of Requirements: On the first Monday of January, the clerk of each

- common pleas court clerk (or clerks from divisions of a common pleas court, such as a juvenile court clerk, domestic relations court clerk, etc.)
- court of appeals clerk
- probate judge clerk
- sheriff

shall make two certified lists of unclaimed fees and costs outstanding for one year, and post the list in her/his office and the courthouse for 30 days. ~~Effective 1/13/2012, SB 124 requires~~ One list is required to be posted in his/her office and the other list shall be posted at a public area of the courthouse or published on the web site of the court or officer, on the second Monday of January. Both lists must be posted for a period of 30 days. [Ohio Rev. Code §2335.34]

After the aforementioned 30 day period, the clerk or sheriff must pay the money to the county treasury. Each such officer shall indicate in her/his cashbook and docket the disposition of each unclaimed item. [Ohio Rev. Code §2335.35]

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

Sample Questions and Procedures:

1. Describe procedures used to assure the list is maintained completely and accurately (these objectives will usually be addressed by the procedures used to maintain other required court records).
2. Please show me how you reconcile the unclaimed amounts to balances held in the bank.
3. Please show me your most recent listing of unclaimed funds.
4. How much was paid to the county for unclaimed funds during the year under audit?

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-11 Compliance Requirement: Ohio Rev. Code §1907.20 - Records required of county courts.

Summary of Requirement: County courts must maintain a general index and a docket.

On the first Monday of each January, the clerk must list all cases more than one year past for which money has been collected but unclaimed. The clerk must transmit notice of unclaimed funds to the party or to the party’s attorney. Money still unclaimed each April 1 must be paid to the county treasury. (Note: the funds remain the property of the potential claimant per Ohio Rev. Code §1907.20(D))

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

Sample Questions and Procedures:

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews). Note: We include this step here for emphasis, though it should be part of the financial audit tests and does not require additional testing for Ohio Rev. Code purposes.
3. Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
4. How do you identify amounts unclaimed for more than one year?
5. Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
6. How much was paid to the county for unclaimed funds during April of the year under audit?

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-12 Compliance Requirement: 1901.31---.Ohio Rev. Code- Municipal court records.

Summary of Requirement: Municipal court clerks must maintain a general index and a docket and a listing of all cash receipts and disbursements. [Ohio Rev. Code §1901.31(E)].

On the first Monday of each January, the clerk must list all cases more than one year past for which money has been collected but unclaimed. The clerk must transmit notice of unclaimed funds to the party or to the party’s attorney. Money still unclaimed each April 1 must be paid to the municipal treasury (or county treasury, if it is a county-operated municipal court). [Ohio Rev. Code §1901.31(G)]

(Note: the funds remain the property of the potential claimant. That is, the government is holding this cash similar to an agent on behalf of the claimant.)

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

Sample Questions and Procedures:

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews). Note: We include this step here for emphasis, though it should be part of the financial audit tests and does not require additional testing for Ohio Rev. Code purposes.
3. Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
4. How do you identify amounts unclaimed for more than one year?
5. Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
6. How much was paid to the county for unclaimed funds in April following the year under audit?

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-13 Compliance Requirement: Ohio Rev. Code §1905.21 - Docket; disposition of receipts. Ohio Rev. Code §733.40 - Disposition of fines and other moneys for mayor’s court.

Summary of Requirements: The mayor of a municipal corporation and a mayor's court magistrate shall keep a docket. The mayor or mayor’s court magistrate shall account for and dispose of all such fines, forfeitures, fees, and costs collected. [Ohio Rev. Code §1905.21]

All moneys collected shall be paid by the mayor into the municipality on the first Monday of each month. At the first regular meeting of the legislative authority each month, the mayor shall submit a full statement of all money received, from whom and for what purposes received, and when paid into the treasury. [Ohio Rev. Code §733.40]

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

Sample Questions and Procedures:

The financial audit procedures would normally include these steps. It is sufficient to cross reference results from financial audit procedures satisfying these requirements to this step without the need for any other procedures.

1. Do you maintain a docket?
2. How do you assure that the docket is maintained completely and accurately?
3. Do you submit the required statement each month? Please show me _____ (pick a few monthly statements and have personnel walk you through them).
4. Describe procedures used to assure that the statement is complete and accurate.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-14 Compliance Requirements: The following is a list of courts and of the related statutory provisions (all references are to the Ohio Rev. Code) for the collection, custody, and disbursement of fees, fines, costs, and deposits.

~~Effective 9/23/2011, HB 5, consolidates references to the numerous costs and fees, other than fees of receivers and attorney fees, that apply in Ohio's courts of record into eight new Revised Code sections. The act does not amend the sections that establish these costs and fees or abolish or create any costs or fees. Rather, the HB organizes existing costs and fees according to the courts in which they apply, and it refers to the Revised Code sections that create them. In essence, the act provides a reference guide to fees and costs in Ohio's courts.~~

2746.01	All courts of record (primarily in civil cases)
2746.02	All courts of record (in criminal and juvenile cases and some civil actions related to criminal cases)
2746.03	Supreme Court, courts of appeals, Court of Claims (in addition to the charges applicable in all courts of record)
2746.04	Courts of common pleas (in certain civil cases, in addition to the charges applicable in all courts of record)
2746.05	Juvenile courts (in addition to the charges applicable in all courts of record and the courts of common pleas)
2746.06	Probate courts (in addition to the charges applicable in all courts of record and the courts of common pleas, subject to any waiver of fees for combat zone casualties under R.C. 2101.164 and any reduction of fees that R.C. 2101.20 allows the judge to make)
2746.07	Municipal courts (in addition to the charges applicable in all courts of record and the courts of common pleas)
2746.08	County courts (in addition to the charges applicable in all courts of record and the courts of common pleas)

Municipal Court

1901.14	Powers of judge; fees; rules; annual reports
1901.26	Costs for operation of the court and special projects ¹⁸
1901.261	Additional fees for computerization of court or office of clerk of court*
1901.262	Fee for dispute resolution
1901.31	Clerk of Court, powers and duties
2951.021	Supervision fees (Probation)
2949.094(A)	15% Add-on fee for indigent alcohol treatment fund
4511.193	Fee for indigent alcohol treatment fund

Mayor's Court

733.40	Disposition of fines and other moneys
1907.261	Fees for computerization of clerk of court office * (applies per 1905.02)
2949.094(A)	15% Add-on fee for indigent alcohol treatment fund ¹⁹

¹⁸ R.C. 1901.26(A)(1)(b)(i) authorizes municipalities to establish fees for services related to a municipal court performed by officers or other employees of the municipal corporation's police department or marshal's office of any of the services specified in R.C. 311.17 and 509.11 5. The act provides that no fee in the schedule may be higher than the fee specified in R.C. 311.17 for the performance of the same service by the sheriff. If a fee set by municipal ordinance conflicts with a fee for the same service established in a statute or rule of court, the fee established in the statute or rule applies.

¹⁹ Per ORC 733.40, distribution of the 15% referenced in 2949.094(A) depends on whether, it was a moving violation based on a statute or an ordinance. If the fine was collected based on violation of a statute then the money goes into the County Treasury; if the fine was collected based on a violation of a municipal ordinance, then the 15% goes into the municipal treasury.

4511.193 Fee for indigent alcohol treatment fund

County Court

1907.20 Clerk of county court, powers and duties
 1907.24 Schedule of fees and costs and disposition
 1907.26 Disposition of fees and costs
 1907.261 Additional fees for computerization of court or office of clerk of court*
 1907.262 Fee for dispute resolution
 2949.094(A) 15% Add-on fee for indigent alcohol treatment fund
 4511.193 Fee for indigent alcohol treatment fund

Probate Court

325.28 Receipt for fees
 2101.12 Records to be kept; indexes
 2101.15 Probate judge to file itemized account of fees to county auditor
 2101.16 Fees and costs generally
 2101.162 Additional fees for computerization of court or office of clerk of court*
 2101.163 Fee for dispute resolution
 2101.17 Fees from county treasury
 2101.20 Reduction of fees (if collected fees exceed court salary costs)
 2333.26 Fees of probate court
 3113.34 Additional fee for marriage license; fee for domestic violence shelter
 3705.21 Registration of marriages, divorces, dissolutions, annulments
 5310.05 Assurance fund rate
 5310.06 Monthly payments of money to treasurer of state, investment of funds
 5310.15 Miscellaneous Fees

Juvenile Court

325.28 Receipt for fees
 2151.54 Fees and costs generally
 2151.541 Additional fees for computerization of court or office of clerk of court*
 2949.094(B) 15% Add-on fee for indigent alcohol treatment fund
 4511.193 Fee for indigent alcohol treatment fund

Court of Common Pleas

325.28 Receipt for fees
 2301.031 Fee for computerization of domestic relations division
 2303.20 Fees and costs generally
 2303.201 Fees for computerization of clerk of court office and disposition*
 2303.22 Costs and fees taxed upon writs
 2335.35 Disposition of unclaimed fees and costs
 2335.37 Payment of certain costs to county treasury
 2335.241 Interest on certificates of judgment; computerization of court/ clerk's office
 (**Note:** Ohio Rev. Code §2335.241 is not subject to the computerization fee restrictions of Bulletin 2005-003 discussed on the following page.)
 3109.14 Fees for birth and death records and disposition of divorce or dissolution filings;
 Children's trust fund
 2951.021 Supervision Fees (Probation)
 4505.14 Fees for lists of title information
 4519.59 Fees for certificate of title
 4519.63 Preparation and furnishing title information; Fees

4519.69	Fee for processing physical inspection certificate
5310.05	Assurance fund rate
5310.06	Monthly payments of money to treasurer of state, investment of funds
5310.15	Miscellaneous Fees

Court of Appeals

2501.16	Clerk of Court, powers and duties; fees for special projects
2303.20	Fees & Costs Generally (applies via 2501.16 & 2303.03)

All Courts

2335.30	Posting table of fees
2743.70	Fine to fund reparations payments (collection and remittance to state)
2937.22	Surcharge for Bail for offenses other than traffic offenses or moving violations
2949.091	Execution of sentence (collection and remittance to state)
2949.094	Additional court cost for alcohol treatment and drug law enforcement funds (<i>fee per offender, not moving violation</i>)
4511.19(G)(5)(a)	Fine for enforcement and education fund
4513.263	Occupant restraining devices
5503.04	Disposition of fines and moneys arising from bail forfeitures

The clerks of various courts receive cash in payment of various court fees, costs, and fines, as well as contingent deposits pending the outcome of legal proceedings. Such monies normally may be deposited in banks or savings and loan associations pending distribution in accordance with statutory specifications or as directed by the court.

All moneys collected during a month and owed to the state shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of the state [Ohio Rev. Code Sections 1907.24(C), 2303.201(C), 2743.70 (A), 2949.091(A) (all courts) & (B), and 3109.14].

* Per Auditor of State Bulletin 2005-003, it is the AOS’s opinion that a government cannot use these fees to compensate court employees who use a computer in their ordinary duties. Rather, the AOS believes the Ohio Legislature intended that such fees are to be used to procure and maintain computer systems or to computerize courts. This would include procuring services for installing, updating, and maintaining court computer systems (e.g., computer programmers or computer engineers). These services may be provided by employees or staff of the court and, in these circumstances, fees could be expended for employee or staff expenses as properly documented to demonstrate the percentage of time spent on such activities. However, employees and staff should not be compensated from computerization fees when using the court’s computer systems as end-users.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

Sample Questions and Procedures:

Note: The Ohio Rev. Code sections listed in this step are provided primarily for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should be part of the financial audit of the court.

1. Inquire and examine how the court updates its fines and fees schedule for new fines/fees and changes to existing legislation. Ask the court to demonstrate how it updated its fines/fees schedule for the most recent statutory change and ensures the fines/fees collected are properly distributed to the appropriate fund. (e.g., RC 2937.22 now imposes a \$25 surcharge when posting bail for violations, except non-moving traffic offenses) *(Typically, we only require a low degree of assurance over compliance with this requirement. However, where courts are a material audit cycle, auditors should evaluate general IT controls (AOS staff should complete the RCEC) for automated court systems. When fine schedules are stored as standing data in an automated system subject to adequate general IT controls, examining one fine or fee that changed (the bail surcharge for example), normally provides sufficient evidence that the proper fine was charged. We also do not require staff to test all fine amounts set by statute. Instead, the objective should be to determine if the court is conscientious in updating its fine schedule timely and accurately.)*
2. Inquire as to how the court spends computerization fees. Determine whether the accounting system can segregate computerization fees received and spent; or how the court otherwise determines that these fees were only spent on permissible computerization activities per AOS Bulletin 2005-003.

Government Personnel Interviewed and Dates:**Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):**

3-15 Compliance Requirement: Ohio Rev. Code Sections 2743.70 and 2949.091 - Additional costs in criminal cases in all courts to fund reparations payments; additional court costs for state general revenue fund.

Summary of Requirements: These sections generally require the court in which any person is convicted of or pleads guilty to any offense other than a traffic offense which is not a moving violation to impose and collect additional fines to be used for the state’s reparations fund. The court may not waive the payment of this additional cost unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

Sample Questions and Procedures:

Note: The Ohio Rev. Code sections listed in this step are provided primarily for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should be part of the *financial* audit of the court.

Inquire and examine how the court updates its fines and fees schedule and ensures the fines/fees collected are properly distributed to the appropriate funds. Ask the court to show you a few state fund reparations costs and determine they were distributed reasonably. *(Typically, we only require a low degree of assurance over compliance with this requirement. However, where courts are a material audit cycle, auditors should evaluate general IT controls (AOS staff should complete the RCEC) for automated court systems.)*

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

COUNTIES AND COUNTY HOSPITALS

3-16 Compliance Requirements: Ohio Rev. Code §319.04 - Mandates training and continuing education requirements for **county** auditors.

Summary of Requirements: An elected county auditor needs to complete at least 16 hours of continuing education courses during the first year of each full term, and to complete at least eight more hours by the end of that term. The county auditor needs at least two hours of ethics and substance abuse training in the total 24 hours of required courses. The County Auditors Association of Ohio (the Association) must approve each course. If a county auditor teaches an approved course, the county auditor may receive credit for it. The Association shall keep track of the hours completed by each county auditor and, upon request will issue a statement of the number of hours of continuing education the county auditor has successfully completed. The Association will send this information to the Auditor of State's office and to the Tax Commissioner each year. If a county auditor does not adhere to the requirements stated above, the Association shall issue a "notice of failure" to that county auditor. This notice is for informational purposes only and does not affect any individual's ability to hold the office of county auditor. Also, each board of county commissioners shall approve reasonable amounts required by the county auditor to cover the costs incurred when meeting the above requirements.

Sample Questions and Procedures:

1. Review the County Auditor Association's statement documenting ~~your~~ attendance or confirm by reviewing the County Auditor Continuing Education Status Report located at: <http://www.ohioauditor.gov/resources/ipa/>.
2. Determine if the Auditor obtained sufficient CPE.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-17(a) Furtherance of Justice (FOJ)

Per Ohio Rev. Code § 325.071 the sheriff's annual FOJ appropriation equals ½ of the Sheriff's salary. Ohio Rev. Code § 325.06(A) and 325.18(C) prescribe sheriffs' salaries. Note that the additional 1/8 salary paid to sheriffs per RC 325.06(B) is **not** includable in the FOJ calculation.

Per Ohio Rev. Code §325.12, the prosecutor's annual FOJ appropriation equals ½ of the prosecutor's salary. This appropriation is to cover expenses incurred in performing the prosecutor's official duties and in the furtherance of justice.

The statutes require the sheriff and the prosecutor to file with the county auditor by the first Monday in January a full accounting of the expenditure of all funds from the FOJ account for the previous year. The statute requires the redeposit of any remaining funds, including cash held by officers, to the county treasury.

Sample Questions and Procedures (To be performed every year):

1. Please show me any policies and procedures you have for administering this fund.
2. Did you file the required annual report of expenditures for this fund? Please show me a copy of it.
3. Please show me documentation that the expenditures from this fund were proper and in accordance with your policies and procedures. Auditors should scan expenditure documentation and determine whether appropriate documentation is being maintained (i.e. receipts, invoices, affidavits, etc.), and whether expenditures appear reasonable in nature (i.e. proper public purpose). If significant unusual items are noted, auditors should perform the disbursement testing procedures included in the audit program below.

FOJ Audit Program (To be performed every three years):

Auditors auditing counties should use this audit program to test FOJ accounts. Auditors should develop a schedule for performing tests of compliance over these accounts on a rotational basis, with the audit programs being applied at least every third year. You should occasionally test these requirements every other year so the auditee cannot predict the year we will test this. We should not disclose our schedule to the auditee. However, if problems were noted with one of the funds in the previous year, apply the audit programs annually until the problems have been corrected (for example, the audit program procedures should be applied if significant expenditures were noted in the previous year which were not supported by appropriate documentation or were not for a proper public purpose).

Audit Program Steps:

1. Determine whether the sheriff and prosecutor filed a full accounting of expenditures of all funds from the FOJ account with the County Auditor by the first Monday in January as required by Ohio Rev. Code Section 325.071 and 325.12(E).
2. Examine the county's computation of amounts payable from the general fund to the FOJ account per RC 325.071 & 325.12. Compare the computation to actual payments. Investigate any differences and determine whether the prosecutor received approval from the court of common pleas under Ohio Rev. Code Section 325.13 to allocate any additional funds to the FOJ account.

3. Per AOS Bulletin 97-14, any amounts paid to the FOJ fund in excess of the statutory limits described above will result in a finding for adjustment against the FOJ fund.
4. Determine whether a written internal control policy exists for administering and expending funds in the FOJ account. Compare the county's internal control policies to the guidance provided in AOS MAS Bulletin/Circular 81-07 for consistency (available in the AOS Briefcase). Lack of a clear, written policy should be communicated to the audit committee and/or management officials of the County.
5. Does the policy establish clear internal controls regarding the distribution of the funds? If so:
 - Do officers receiving cash sign a form or prenumbered, duplicate receipt for all money received?
 - Does the officer providing the cash also sign a form acknowledging the disbursement of cash?
 - Obviously the department should not obtain receipts for payments to informants. However, do officers submit vendor invoices, cash register slips or other documentation to support other uses of funds (similar to an imprest petty cash fund)?
 - Are officers required to keep an Agent Expense Report or similar paperwork?
 - What does the policy state an officer should do when a receipt cannot be obtained? Examine evidence supporting whether or not officers comply with the policy.
 - Does the policy require affidavits when officers pay cash to informants and for other confidential purposes?
6. Obtain the county's reconciliation of bank balances to the activity in the FOJ account cash book.
 - Foot the reconciliation.
 - Agree the bank balance per the reconciliation to the bank account statement balance.
 - Scan reconciling items for reasonableness.
 - Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank.
 - Agree the book balance per the reconciliation to the FOJ account balance.
 - Trace payment of the remaining year end FOJ balance to a receipt / revenue into the county treasury, as RC 325.071 (sheriff) and RC 325.12(E) (prosecutors) requires.
7. Obtain the check register and review the payees* for reasonableness of the expenditure. If there are checks written to the Sheriff or other high ranking officials, include these disbursements in the test that step 7 describes.

*Due to the 21st Century Check Act, there are instances in which the bank is no longer able to return an original paper check or a photocopy of an original paper check. Instead, the bank is able to provide you with only a "display history" of a withdrawal from your checking account. Information on a bank's "display history" typically includes, but is not limited to, the number of the account upon which the check is drawn, routing information, the person or entity to whom the check was made payable, the purpose for which the money was paid, and the amount paid to the person or entity. Because a bank's "display history" of a withdrawal from a checking account sets forth the same information that appears on an original paper check or a photocopy of an original paper check, such a "display history," like an original paper check or photocopy of an original paper check, may provide a reasonable and reliable means by which a county prosecuting attorney can accurately account for a disbursement from his furtherance of justice allowance. [AG Opinion 2005-035] Also see AOS Bulletin 2004-10.

8. Select a representative group of disbursements from the year end FOJ report, listing the check number, date, amount, and payee, and determine that:
- amount per the report agrees with the canceled check or receipt.
 - check is properly endorsed and signed by the Sheriff
 - expenditure is for furtherance of justice (almost everything counts except personal items— see the guidance in Bulletin 81-07 and 97-14)
 - Determine that the officer completes an affidavit to support confidential payments, describing the amount of the expenditure and either the check number or the receipt number related to the expenditure as well as a statement of a general nature of the expenditure. If an affidavit is executed, the Auditor of State will not require production of the actual check or receipt and will not make any further inquiry into the detail surrounding the expenditure unless there is probable cause to believe that the affidavit is false. If no affidavit is executed, the officer must produce sufficient documentation to support that the expenditure is for a proper public purpose. Please note that a mere assertion by the officer that an expenditure is confidential is not sufficient to negate the documentation requirements.
 - Determine whether other (i.e. non confidential) disbursements are adequately supported by original documents (e.g., original invoices, receipts, receiving report, etc.)
 - Determine that checks do not appear to have been altered
 - Determine whether amounts agree among related documents, and that computations (footings, extensions, etc.) are correct.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-17(b) Law Enforcement Trust Fund**Mandatory Drug Fine**

Ohio Rev. Section 2925.03 (F)(1) requires the clerk of a court to pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county. . . or state law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section. **(Audit Program Steps 1-5 starting on page 38)**

Ohio Rev. Section 2925.03 (F)(2) provides guidance on preparing an internal control policy which describes the general types of allowable expenditures from the Law Enforcement Trust Fund. **(Audit Program Steps 1-5 starting on page 38)**

Ohio Rev. Code Section 2925.03 (F)(2)(b) states in part that each law enforcement agency receiving fine moneys under (F)(1) of this section or division (B) of Ohio Rev. Code 2925.42 shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by that agency pursuant to (F)(2)(a) of this section, and shall send a copy of the cumulative report to the Attorney General by March 1. **(Audit Program Steps 1-12 starting on page 38)**

Forfeited Moneys

Ohio Rev. Code Section 2981.13(C)(2)(A) requires sheriffs and county prosecutors to adopt an internal control policy relating to proceeds and forfeited money. The policy should address the use and disposition of all the proceeds and forfeited moneys, the general type of expenditures to be made out of the proceeds and forfeited moneys received, and records to be maintained.

Ohio Rev. Code Section 2981.11(B)(2) provides that any law enforcement agency that receives or uses any proceeds or forfeited monies out of a law enforcement trust fund under section 2981.13 of the Revised Code shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept pursuant to this section and shall send a copy of the cumulative report to the Attorney General by March 1. **(Steps 1-12 starting on page 38)**

Sample Questions and Procedures (To be performed every year):

1. Please show me any policies and procedures you have for administering this fund.
2. Did you file the required annual report of expenditures for this fund? Please show me a copy of it.
3. Please show me documentation that the expenditures from this fund were proper and in accordance with your policies and procedures. Auditors should scan expenditure documentation and determine whether appropriate documentation is being maintained (i.e. receipts, invoices, affidavits, etc.), and whether expenditures appear reasonable in nature (i.e. proper public purpose). If significant unusual items are noted, auditors should perform the disbursement testing procedures included in the audit program below.

Law Enforcement Trust Fund Audit Program (To be performed every three years):

Auditors auditing counties should use this audit program to test Law Enforcement Trust Fund accounts. Auditors should develop a schedule for performing tests of compliance over these accounts on a rotational basis, with the audit programs being applied at least every third year. You should occasionally test these requirements every other year so the auditee cannot predict the year we will test this. We should not disclose our schedule to the auditee. However, if problems were noted with one of the funds in the previous year, apply the audit programs annually until the problems have been corrected (for example, the audit program procedures should be applied if significant expenditures were noted in the previous year which were not supported by appropriate documentation or were not for a proper public purpose).

Audit Program Steps:

1. Obtain the written internal control policy RC 2925.03(F)(2)(a) requires. The policy should address the law enforcement agency's use and disposition of all drug fine moneys received, and require using detailed financial records of the receipts of the fine moneys, the general types of expenditures made of this fine money, and the specific amount of each general type of expenditure.

The policy shall not provide for or permit the identification of any specific expenditure made for an ongoing investigation. All financial records of receipts and expenditures by the law enforcement agency are considered public records open for inspection.

2. Review the written internal control policy for the appropriate elements noted in step 1 above. (If we reviewed the policy in a prior audit, scan for changes and document in the permanent file.)
3. Determine if the law enforcement agency implemented the written internal control policy and has complied with the provisions pertaining to the use and disposition of drug fine moneys received, keeping of detailed financial records, allowability of expenditures made, and any limitations on the amount of each general type of expenditure.

We should test this via procedures we use to determine if controls have been placed in operation. These might include a walk-through and scanning a few disbursements and the related documentation and financial records. See AOSAM 30500.45.

4. Obtain the report RC 2925.03(F)(2)(b) requires, covering the current fiscal year cumulating all of the information contained in the public financial records kept by the agency and determine whether a copy was filed with the Attorney General's Office not later than March 1. Auditors should send RC 2925.03(F)(2)(b) noncompliance violations (report and/or management letter) to the Auditor of State legal division.
5. An additional fine imposed under RC 2929.18(B)(4) does not require distribution to LET funds under R.C. 2925.03(F).

Instead, fines imposed under RC 2929.18(B)(4) must be used as provided in R.C. 2925.03(H). This section requires fines to be used solely for the support of one or more eligible alcohol and drug addiction programs. Determine if any such fines existed and were spent according to RC 2925.03(H).

6. Obtain the bank accounts and support documentation representing LET fund activity established by the prosecuting attorney and by the sheriff.

TOWNSHIPS

Important: *This step must be performed annually and should not be rotated.*

3-18 Compliance Requirement: Ohio Rev. Code Sections 507.09 and 505.24(C) Allocating township trustee and fiscal officer compensation

Summary of Requirement, per Ohio Rev. Code §507.09 and §505.24(C):

- (1) **Trustees receiving per diem compensation:** When members of the board of township trustees are compensated per diem, a *majority* of the board must pass a resolution establishing the periodic notification method to be used for reporting the number of days spent in the service *and kinds of services rendered* on those days.²⁰ The per diem compensation shall be paid from the township general fund or from other township funds in proportion to the kinds of services rendered, as documented. (For example, the township could charge trustee time spent on road repairs to the road & bridge fund.) Ohio Rev. Code §505.24 limits the number of days a trustee can be compensated to 200.

However, for **salaries not** paid from the general fund, 2004 OAG Opinion 2004-036 established the following documentation requirements:

As noted above, however, a board of trustees is authorized by R.C. 505.24 to pay trustees' salaries from the general fund or other township funds "in such proportions as the board may specify by resolution." The board may therefore determine, as part of its budgeting process, to appropriate money in the EMS Fund for payment of trustees' salaries. In order to meet the proviso in R.C. 505.84, that the EMS Fund be used only for ambulance and emergency medical services, however, the board would be required to establish administrative procedures for assuring that the proportionate amount paid from the EMS Fund for trustees' salaries properly reflected the proportion of time each trustee spent on EMS matters relative to other township matters. This would necessitate trustees documenting all time spent on township business and the type of service performed, in a manner similar to trustees paid a per diem. To the extent that the board is able to determine the portion of time spent on EMS matters, relative to the total time spent on township business, it may pay the proportionate cost of the trustee's salary from the EMS Fund. If a trustee's time is not documented, however, then no part of his salary may be paid from the EMS Fund.

In other words, 2004 OAG Opinion 2004-036 requires trustees compensated on a per diem basis to establish administrative procedures to document the proportionate amount chargeable to other township funds based on the kinds of services rendered. The "administrative procedures" can be timesheets or a similar method of record keeping, as long as the trustees document all time spent on township business and the type of service

²⁰ The Ohio Rev. Code does not define a "day" for purposes of this requirement. Townships should consult with their legal counsel and adopt a policy in compliance with OAG Opinion 2004-036. If a Township has a duly enacted policy defining what constitutes a "day" in compliance with OAG Opinion 2004-036, we will audit in accordance with that policy. If the Township has not adopted a policy, we will audit proportionately as indicated above.

performed, in a manner similar to trustees paid per diem compensation. If per diem trustees do not document their time, then no part of salaries may be paid from the restricted funds.

The important factor is the portion of time spent on other township funds, relative to the total time spent on township business (as opposed to the total days in a given month). In other words, do not factor days in which no township work is done into the allocation.

Per the above, per-diem trustees must record the time spent on various tasks and the specific fund to which the township will charge their costs when paying any proportion of a trustee's salary from a restricted fund. Although the fire and rescue services, ambulance services, and emergency medical services fund under R.C. 505.84 was the focus of OAG Opinion 2004-036, the ruling also applies to funds for the motor vehicle license tax pursuant to R.C. 4504.18 and 4504.19; motor vehicle tax pursuant to R.C. 4503.02; gasoline tax pursuant to R.C. 5735.27(A)(5)(d); the cemetery fund pursuant to R.C. 517.03, and any other restricted fund. (The sole exception to this is for trustees charging all salaries to the general fund, as described above.) The township must maintain daily records of tasks performed for each individual trustee that, when reviewed cumulatively for the fiscal year, will provide reasonable justification for the apportionment of salary between funds as specified in the resolution. **Monthly summaries in lieu of daily records are not acceptable.**

Important note: Resolutions to pay trustees by salary should specify that a township will allocate salaries based on *documentation* the trustees submit, not based on percentages a *resolution specifies*.

For example, it is **not** acceptable for a township to resolve that they will “charge 50% of trustee salaries and benefits to the general fund and 50% of this compensation to the road & bridge fund.”

- (2) **Trustees receiving compensation by annual salary:** To be paid on a salary basis in equal monthly installments, the board of trustees must *unanimously* pass a resolution to allow it. To be paid from any fund(s) other than the general fund, the resolution must also specify the proportions of the salary that are to be paid from each fund (ORC 505.24(C)). These proportions are a guide for use throughout the year; however, total payment for the fiscal year must be based on the cumulative *actual* service efforts²¹ during the fiscal year on restricted fund²² activity. If trustees use the salary method and are compensated from funds other than the general fund, they must certify the percentage of the time spent working on matters that are to be paid from funds other than the

²¹ Townships should use a reasonable method to document and allocate Per Diem Township Trustee compensation to the appropriate funds. As an example, assume the Board of Trustees passes a Resolution at the beginning of the year dividing the Trustees' compensation evenly between the General Fund and Road and Bridge Fund. The Township Fiscal Officer uses the amounts specified within the Resolution to allocate the Trustee compensation payments evenly to the appropriate funds throughout the year. However, at year end, the Township Fiscal Officer should reconcile the fund allocations to time and effort records, maintained by the Trustees, documenting the actual cumulative service effort for the year. If necessary, the Township Fiscal Officer should adjust the fund allocations according to the actual cumulative service effort. If, however, the fund allocation was reasonably close to the actual cumulative service effort was (e.g., 52/48 split vs. 50/50), no adjustment is necessary. Another example would be to allocate each month according to actual time spent, if the cumulative allocation doesn't match the resolution at the beginning of the year, no need to go back and change the resolution.

²² Regarding this Ohio Compliance Supplement step, a *restricted fund* is any fund other than the general fund.

general fund. Trustees must complete a certification prior to receiving his/her pay for that pay period. The certification must be done individually, but is not required to be notarized. The certification is not required to be a time log. Rather, all that is required is a statement detailing the percentage of time that the trustee/fiscal officer spent during that pay period providing services related to each fund to be charged. A sample certification is attached to AOS bulletin 2011-07. If 100% of the compensation of the township trustee is to be paid from the general fund, no certification is required.

- (3) **Fiscal officer compensation:** Fiscal officers compensated from funds other than the general fund must certify the percentage of the time spent working on matters that are to be paid from funds other than the general fund. They must complete a certification prior to receiving his/her pay for that pay period. The certification must be done individually, but is not required to be notarized. The certification is not required to be a time log. Rather, all that is required is a statement detailing the percentage of time that the trustee/fiscal officer spent during that pay period providing services related to each fund to be charged. A sample certification is attached to AOS bulletin 2011-07. If 100% of the compensation of the township fiscal officer is to be paid from the general fund, no certification is required.

Uncertified annual salaries for salaried-trustees/fiscal officer, where the trustees/fiscal officers have been paid from funds other than the General Fund, should result in findings for adjustment and the consideration of opinion qualifications including adverse opinions (if the auditee refuses to post the adjustment). Undocumented per diem salaries for trustees, where the trustees officers have been paid from funds other than the General Fund, should result in findings for adjustment and the consideration of opinion qualifications including adverse opinions (if the auditee refuses to post the adjustment).

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider recent changes to the statutory requirements described in this OCS step. This statute contains intricate requirements and interpretations.

Sample Questions and Procedures:

Document how the township records the time spent on each township service.

Recompute selected allocations of trustee/fiscal officer salaries or per diem amounts to each fund.

For fiscal officers or trustees paid by annual salary with allocations to funds other than the general fund, trace selected allocations to certifications.

For trustees paid per diem, with allocations to funds other than the general fund, trace time or services performed to time or activity sheet.

Agree selected postings of the salaries from step 2 to the township's check register.

Note: A failure to document the time spent on township tasks would constitute a scope restriction on the allocation of trustee salaries. This could affect our financial statement opinion, if the undocumented allocation is material to the financial statements.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Revised: HB 347, 129th GA
Effective: 3/20/13

3-19 Compliance Requirements: Ohio Rev. Code §505.60 and 505.601, AOS Bulletin 2009-003, and 2005 Op. Atty. Gen. No. 2005-038 - Reimbursement of insurance premiums – **Townships**.²³

Summary of Requirements:

Townships may reimburse a township officer or employee for out-of-pocket premiums for insurance policies, including long-term care insurance. The reimbursement is permitted for a township officer or employee who is denied coverage under a township health care plan established pursuant to Ohio Rev. Code §505.60, **or** who elects not to participate in the township’s plan. House Bill 458 clarifies that the township may reimburse for each out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits that the board could have provided under Ohio Rev. Code §505.60(A). The reimbursement cannot exceed an amount equal to the average premium paid by the township under any health care plan it procures [Ohio Rev. Code §505.60(D)]. The 129th General Assembly amended R.C. 505.60 (D) to include “and their immediate dependents.” Therefore, the Auditor of State will not issue findings for recovery or noncompliance citations relative to reimbursements for health care insurance coverage of immediate dependents by townships (even if those reimbursements occurred before the effective date).

Requirements governing township-procured health insurance coverage apply equally to township-paid coverage through a health insuring corporation contract as follows:

- that an officer or employee may decline coverage under either method without affecting the availability of coverage to other officers and employees
- that either method may provide the same kinds of coverage
- that coverage under either method is to be paid from the same township sources used to pay employee and officer compensation
- that immediate dependents may be covered under either method
- that reimbursement of an officer or employee for premiums paid for alternative coverage (e.g., through a spouse) is only for the part of the premium paid for the same kinds of coverage offered by the township's plan, whether it be provided through insurance or a health insuring corporation contract

A township not procuring health care benefits for its officers and employees is permitted to reimburse any township officer or employee for each out-of-pocket premium that the officer or employee incurs. However, pursuant to Ohio Rev. Code §505.601, the township must meet the following three conditions:

1. The board of township trustees adopts a resolution stating that the township has chosen not to procure a health care plan and has chosen instead to reimburse its officers and employees for each out-of-pocket premium,

²³ Note: The Internal Revenue Code [26 USC § 105 (b)] provides an exclusion from gross income of employees for “. . . amounts . . . paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in §213(d)) of the taxpayer, his spouse, and his dependents . . .”. §213 (d)(1)(D) provides that the term “medical care” includes amounts paid for insurance. Therefore, reimbursing township employees for their medical insurance generally should not result in a taxable event to those employees, if the township is reasonably assured that the reimbursements are not in excess of employees’ expenditures for medical insurance as defined.

2. The resolution provides for a uniform maximum monthly or yearly payment amount for each officer and employee,
3. The resolution states the specific benefits, pursuant to Ohio Rev. Code §505.60(A), that will be reimbursed.

R.C. 505.601 (reimbursement when a township does *not* offer health insurance to its officers/employees) covers reimbursements made to township officers/employees for dependant health care coverage. Reimbursement is only for the part of the out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits that the board could have provided under R.C. 505.60(A), and that the reimbursement covers immediate dependents in addition to the officer or employee.

Note: 2005 Op. Atty. Gen. No. 2005-038 states that townships are not authorized to directly reimburse the employer of a township officer or employee's spouse for the cost of family coverage under a health care plan provided to the spouse by the spouse's employer. Auditors should consider appropriate findings if such reimbursements are identified. However, the officer or employee can be directly reimbursed for the out-of-pocket premium attributable to that officer or employee for health care coverage provided through the employer of a spouse as outlined in R.C. Sections 505.60 and 505.601.

Auditors should refer to AOS Bulletin 2009-003, House Bill 458 – Changes to Dependent Health Care Coverage and to R.C. 5705.05 & R.C. 5705.06, for additional information and uncodified guidance pertaining to previously issued findings for recovery.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider recent changes to the statutory requirements described in this OCS step. This statute has been amended several times over recent years. As a result, there is an increased risk of noncompliance.

Sample Questions and Procedures:

1. Did the township reimburse any officer or employees for insurance benefit premiums during the period?
2. If so, please show me the resolution authorizing reimbursement. (We should maintain a copy in the permanent file so we needn't repeat this step each audit.)
3. Were the employers of any township officers or employees' spouses reimbursed for family coverage obtained through a spouse? If so, auditors should report findings, as appropriate. However, based on conflicting opinions of several prosecuting attorneys as well as the amendments to Ohio Rev. Code §505.60 and 505.601, effective December 20, 2008, which generally allow for reimbursement for family coverage, we will not issue FFRs for 2008 and earlier audit periods.
4. Describe your procedures for ensuring reimbursements meet the requirements of [§505.60(C) or the reimbursement resolution].
5. Please show me a few employees' reimbursement transactions.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

3-20 Compliance Requirements: Ohio Rev. Code § 505.603²⁴ - “Cafeteria Plans” - Townships.²⁵

Summary of Requirements: In addition to or in lieu of providing benefits to township officers and employees under Ohio Rev. Code §505.60, 505.601, or 505.602, a board of township trustees may offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the "Internal Revenue Code." To offer benefits through a cafeteria plan, the township must adopt a policy authorizing an officer or employee to receive a cash payment in lieu of a benefit otherwise offered to township officers or employee. This cash payment may not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the officer or employee.

Ohio Rev. Code § 505.603 further requires that no cash payment in lieu of a benefit be made unless the officer or employee provides a signed statement with the following information:

- an affirmation that the individual is covered under another plan for that type of coverage
- the name of the employer (if any) that sponsors the coverage
- the name of the carrier that provides the coverage
- the policy or plan number for the coverage

Sample Questions and Procedures:**Note:**

- **None of these steps apply if a township does not have a cafeteria plan.**
- **Steps 1 – 4 only apply when a township adopts or amends a cafeteria plan during the audit period.**

²⁴ ~~HB 225, effective 3/22/2012, added the following new provisions:~~

In addition to providing the benefits to township officers and employees under section 505.60, 505.601, or 505.602 of the Revised Code, a board of township trustees may offer a health and wellness benefit program through which the township provides a benefit or incentive to township officers, employees, and their immediate dependents to maintain a healthy lifestyle, including, but not limited to, programs to encourage healthy eating and nutrition, exercise and physical activity, weight control or the elimination of obesity, and cessation of smoking or alcohol use.

The township fiscal officer may deduct from a township employee's salary or wages the amount authorized to be paid by the employee for one or more qualified benefits available under section 125 of the "Internal Revenue Code of 1986," 26 U.S.C. 125, and under the sections listed in division above, if the employee authorizes in writing that the township fiscal officer may deduct that amount from the employee's salary or wages, and the benefit is offered to the employee on a group basis and at least ten per cent of the township employees voluntarily elect to participate in the receipt of that benefit. The township fiscal officer may issue warrants for amounts deducted under this division to pay program administrators or other insurers for benefits authorized under this section or those sections listed above.

²⁵ Note: The Internal Revenue Code [26 USC § 105 (b)] excludes from gross income of employees “. . . amounts . . . paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in §213(d)) of the taxpayer, his spouse, and his dependents . . .” §213 (d)(1)(D) provides that the term “medical care” includes amounts paid for insurance. Therefore, reimbursing township employees for their medical insurance generally should not result in a taxable event to those employees, if the township is reasonably assured that the reimbursements are not in excess of employees’ expenditures for medical insurance as defined. If the township is not reasonably assured of that, then the cash paid should be reflected on the employee’s or officer’s Form W-2 as an additional taxable benefit. Similarly, if the cash is used for life insurance or any other purpose, the employee’s W-2 should reflect an additional taxable benefit.

- **Reviewing the permanent file should address steps 1 – 4 for years in which there is no amendment.**
- **Steps 5 – 8 apply (on a rotational basis) for every audit in which a cafeteria plan exists.**

1. Do you offer your officers and employees benefits through a cafeteria plan?
2. Inquire if the township worked with their legal counsel and/or accountants to design and administer the plans properly. If so, secure any documentation legal counsel or the accountants have supplied to the township.
3. Did the IRS approve your plan? Please show me a copy of the approval letter.
4. Review the policy document for conformance with the requirements.
5. Describe your procedures for ensuring reimbursements met the requirements of §505.603.
6. Please show me [number] of signed statements with the attestations and the required information.
7. Calculate or review the entity’s calculations that cash in lieu of payments does not exceed 25% of the cost to the township for providing the benefit (that is no longer being received).
8. Determine if the employees’ W-2 forms reflect additional income for the benefit if applicable.

Government Personnel Interviewed and Dates:

Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):