

IMPLEMENTATION GUIDE FOR LEGAL COMPLIANCE AUDITING IN OHIO

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Introduction

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

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

Although a literal interpretation of Ohio Rev. Code Section 117.11 (A) would require testing *all* applicable legal requirements during an audit, the Auditor of State has determined that it is appropriate to limit the compliance requirements subject to audit to (1) the requirements included in the Ohio Compliance Supplement (OCS), plus (2) other direct and indirect compliance requirements *not* included in this Supplement, but required by AU-C 250 (discussed below).

Note: This edition of the OCS includes a very important reassessment of an auditor's compliance testing responsibility for "direct" vs. "indirect" compliance requirements, described below. AOS has established protocols for analyzing the auditor's requirement to test certain compliance requirements in accordance with AU-C 250 (i.e., "direct" vs. "indirect"), legislative mandates, and other stewardship concerns of the public office.

AU-C 250 *Consideration of Laws and Regulations in an Audit of Financial Statements* clarifies the auditor's responsibility regarding OCS tests:

“.02 . . . The provisions of some laws or regulations have a *direct* effect on the financial statements in that they *determine the reported amounts and [required] disclosures* in an entity's financial statements. . .”

Conversely:

“.A13 Many laws and regulations relating principally to the operating aspects of the entity do not *directly* affect the financial statements (their financial statement effect is **indirect**) and are *not captured by the entity's information systems relevant to financial reporting*. Their *indirect effect* may result from the need to disclose a contingent liability because of the allegation or determination of identified or suspected noncompliance.”

- Based on the above (and AU-C 250.A9 – .A11), “**direct** and material compliance” refers *only* to laws a government's information system (which includes its accounting system) must “capture” to *determine financial statement amounts and required disclosures*¹. Therefore, we have classified

¹ Few Ohio GAAP governments' have “formal” systems to compile most balance sheet assets or liabilities. Therefore, GAAP governments' “information systems” include trial balances, other spreadsheets or any other material used to compile GAAP amounts or disclosures.

a law as *direct* in this OCS if noncompliance has the potential to materially misstate the financial statements. Chapter 1 of this compliance supplement includes “direct” laws.

- As one example, GAAP requires governments to present budgetary comparisons as basic statements or as RSI.
- GAAP also requires these presentations to follow the government’s legal budget basis.
 - In Ohio, a “5705 government’s” information system must capture information using the accounting basis RC Chapter 5705 (via GASB Cod. 2400) prescribes to compile budget and actual amounts and budget variances GAAP requires.
 - RC 5705 generally prescribes a cash + encumbrance accounting basis, which a compiler must understand and follow to satisfy GAAP.

AU-C 250.06 b requires more limited audit responsibilities for *indirect* laws, such as those:

- i. fundamental to the operating aspects of the “business” (i.e. a government’s operations),
- ii. fundamental to an entity's ability to continue its business, or
- iii. necessary for the entity to avoid material penalties

Chapter 2 includes “indirect” laws. Chapter 2 also includes laws that statutes mandate auditors to test during an audit.

In addition to the “direct”, “indirect”, and “mandated compliance tests” discussed above the Auditor of State has identified laws of significant public interest due to stewardship considerations. 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. Chapter 3 includes tests for these “stewardship” laws.

However, the categorization of a requirement in Chapter 2 or 3, or even its omission from this Supplement does not lessen a government’s responsibility for compliance and for instituting controls it believes are necessary to assure compliance with any laws and regulations that apply to the government.

Note: The Auditor of State intends to select a few audits randomly each year, to test requirements listed in the OCS Optional Procedures Manual.

The OCS provides auditors with Ohio laws and regulations (and some laws and regulations from other sources) the Auditor of State has identified as potentially significant in an Ohio local government audit. As such, it is designed to help auditors fulfill their responsibility. However, the OCS is *not* a comprehensive list of “direct” or “indirect” compliance requirements for all governments.

In addition to the laws and regulations the *OCS* includes, auditors must also consider other compliance requirements applying to the government, such as charters, ordinances, resolutions, contracts, grant agreements, debt covenants and leases. If any of these requirements could directly and materially affect the determination of financial statement amounts, the auditor should design tests for them. Regarding laws and regulations the *OCS* does not include, auditing standards recognize management's year-round involvement with operations should provide them with knowledge of these requirements. It is therefore reasonable to expect *management* to identify and convey these requirements to their auditor. The AICPA's Audit and Accounting Guide, *State and Local Governments*, 4.82- 4.12 states:

~~“An entity's *management* is responsible for ensuring compliance with the laws, regulations, and provisions of grants and contracts applicable to its activities. That *responsibility encompasses identifying applicable compliance requirements* and establishing internal control designed to provide reasonable assurance that the entity complies with them.”~~

“In accordance with paragraph .03 of AU-C section 250, it is the responsibility of management, with the oversight of those charged with governance, to ensure that the entity's operations are conducted in accordance with the provisions of laws and regulations, including compliance with the provisions of laws and regulations that determine the reported amounts and disclosures in an entity's financial statements. That responsibility encompasses identifying applicable compliance requirements and establishing internal controls designed to provide reasonable assurance that the entity complies with them.”²

To the extent a public office does not fall within the classes of public offices the *OCS* includes, and also in part to (1) corroborate the completeness of the compliance requirements management identifies, and (2) to identify their potential material effect, 4.22 4.86 of the AICPA's *State and Local Governments* Guide (SLG) suggests:

“The auditor may consider performing the following procedures to assess management's identification of compliance requirements that could ~~directly and~~ materially affect the ~~determination of~~ financial statement amounts and disclosures:

- Consider knowledge about compliance requirements obtained during prior-period audits.
- Interview the entity's chief financial officer, legal counsel, or grant administrators about compliance requirements.
- Identify sources of revenue, review any related agreements (for example, loan, grant, and contribution agreements), and ask about legal provisions that relate to using and accounting for the revenue.
- Obtain and review federal and state publications pertaining to compliance requirements, such as Department of the Treasury and Internal Revenue Service regulations (concerning the calculation and reporting of arbitrage rebates and refunds and employment taxes) and OMB's cost principles and administrative requirements circulars and *OMB Circular A-133 Compliance*

² 2011 *Government Auditing Standards* Appendix I, A1.08(b) has a similar requirement. (The internal controls SLG 4.12 4.82 ~~describes mentions~~ are legal *compliance* controls. Some (*but not all*) compliance controls also help control the direct determination of financial statement amounts. Therefore the discussion of an auditor's responsibility to document and assess controls directly and materially affecting financial statement amounts does include only controls related to determining financial statement amounts. See discussion of *Compliance Risk and Controls* later in this **Implementation Guide**.)

Supplement, the *Catalog of Federal Domestic Assistance*,³ and similar state program publications (concerning grants and appropriations).

- Obtain and review sections of the state constitution, statutes, and regulations that pertain to the entity, in particular the sections that concern financial reporting, investment, debt, taxation, budget, appropriation, and procurement matters.
- Review the minutes of meetings of the entity's governing board for the enactment of relevant laws and regulations and information about relevant contracts and grant agreements.
- Ask federal, state, or local auditors or other appropriate audit oversight organizations about applicable compliance requirements, including statutes and uniform reporting requirements.
- Ask the audit, finance, or program administrators of other entities from which the entity receives grants, contributions, and appropriations about the restrictions, limitations, terms, and conditions under which the amounts were provided.
- Review the discussions of compliance requirements applicable to specific industries, as found in this guide and other relevant AICPA Audit and Accounting Guides.
- Review accounting and auditing materials available from other professional organizations, such as state societies of certified public accountants and governmental associations.
- ~~Obtain written management representation regarding the completeness of management's identification of compliance requirements.”~~

To obtain information about possible violations of compliance requirements, the auditor should consider making inquiries of management, legal counsel, grant administrators, and other appropriate sources; and testing transactions for adherence with compliance requirements.”

Direct and Material Laws and Regulations

In addition to the discussion above from AU-C 250, the AICPA Audit and Accounting Guide *State and Local Governments*, sections 4.10 4.82 through 4.23 4.87, discusses legal requirements which might directly and materially affect determining financial statement amounts for a governmental entity.

Material noncompliance (having a direct or indirect effect) would often:

- Require adjusting amounts or revising disclosures.
 - Auditors should do the same regarding noncompliance *indirectly* affecting financial statement amounts or disclosures, if they become aware of it.
 - For example, AU-C 250.06 b.iii describes material penalties as an *indirect effect*, though they may require disclosure or even accrual as a contingent expense
- Require reporting as a material GAGAS noncompliance finding.
- May represent significant / material violations of “finance-related legal or contractual provisions”
 - *SLG 4.87 4.14* and GASB Cod. 2300.106(h) require “financial statement note disclosure of” and “actions taken to address such violations”.
 - See table regarding 4.14 4.87 below in this Implementation Guide.

SLG 4.13 4.83 lists examples of laws that may directly and materially affect the determination of financial statement amounts. When preparing this edition of the OCS we considered the examples in

³ Auditors can also use the Federal Award Compliance Control Records (FACCR's) included on the AOS website as a reference.

4.13 4.83. Each law in OCS Chapter 1 has potential for a direct effect. Laws with indirect classification per AU-C 250.06 b are included in Chapter 2.

SLG 4.14 4.87 and GASB Cod. 2300.106(h) requires *financial statement note disclosure* of significant violations of “finance-related legal or contractual provisions” *and actions taken to address such violations*. The GASB Codification does not define *finance-related legal or contractual provisions*. However, the sources below describe the following as being *finance-related legal or contractual provisions*:

Finance-Related Legal or Contractual Provisions	Source
a. The accounting system must include all funds <u>and procedures</u> required by law or regulation to help assure restrictions on expenditures are met.	NCGA 1, par. 8 Cod. 1200.106
b. 1. Any excesses of expenditures over appropriations in the general or major special revenue funds included in RSI budgetary schedules. (Disclose in footnotes to RSI if presented as RSI.) 2. Disclose significant excesses of expenditure over appropriations for other funds.	GASB 37, par. 19, Cod 2200.207, 2400. 103 GASB Comprehensive Implementation Guide 7.93.1
c. Violations of debt covenants or contracts.	Cod 2300.903, Illustrations 4 and <u>5 6</u>
d. Significant violations during the period of legal or contractual provisions for deposits and investments	GASB Cod. I 50.135
e. <i>Governmental Accounting, Auditing and Financial Reporting</i> (GAAFR) suggests the following constitute “finance-related legal and contractual requirements:” a. Budgetary b. Grant requirements c. Bond contracts (e.g. covenants) d. Laws and regulations of a higher government	2012 GAAFR, pg. 347
f. <u>Deficit fund balances</u>	<u>Cod. 2300.903 Illustration 5</u>

As described later in this *Implementation Guide*, the auditor’s responsibility for “direct compliance requirements” exceeds her or his responsibility for “indirect compliance requirements”. Some of the disclosures listed in the table above relate to indirect compliance requirements. Auditors should certainly request auditees to include these disclosures if evidence suggests they apply. However, *in our judgment*, these disclosure requirements do not require an auditor to *test* compliance requirements with *indirect* financial statement effects using the nature or extent required of *direct* compliance requirements.

Compliance Risk and Controls

Important: AU-C 315.33 requires documenting the five internal control components related to external financial reporting. As described previously, OCS Chapter 1 requirements may *directly* affect the determination of financial statement amounts.

- For example, some controls a government establishes over budgetary reporting can help assure compliance with Ohio Rev. Code Chapter 5705 (compliance controls) *and* with GAAP or other applicable financial reporting frameworks (financial reporting controls). “5705 compliance controls” that also help detect or prevent misstatements in budgetary financial presentations therefore fall under AU-C 315.33(b) documentation and evaluation requirements.
 - AU-C 315.33 “financial control documentation and evaluation requirements” do not apply to controls related solely to helping detect or prevent noncompliance.

- Conversely, AU-C 315.33 documentation and evaluation requirements do apply to direct compliance requirements. For example, preparing budgetary presentations complying with RC 5705 requires **completeness** controls over appropriation amendments, and also requires controls to prevent recording appropriation amendments adopted after the fiscal year end.
 - Because AOS’s position is that appropriation amendments adopted after the fiscal year end fail the **existence** assertion.

Compliance requirements in OCS Chapter 2 and OCS Chapter 3 do not fall within the scope of AU-C 315.53 control documentation and evaluation requirements. There is no requirement to document compliance controls for these compliance requirements.

- Auditors may elect to document and test the operating effectiveness of **compliance** controls related to **any** step in the OCS, if they believe it reduces the necessary extent of substantive testing.
 - Assuming audit tests support these controls’ operating effectiveness.
 - We neither encourage nor discourage a controls’ reliance approach. Auditors should use professional judgment to determine an effective and efficient approach.

Factors to consider in relying on compliance controls are similar to the judgments we use for any financial statement account. **For example**, a compliance controls approach is often more efficient and effective if the volume of transactions subject to the compliance requirement is large. Conversely:

- Relying on investment purchasing controls is normally inefficient for small entities with few investment purchases / sales during the year.
 - They might not need / have formal controls anyway – the CFO’s use of an up-to-date ORC 135.13-.14 listing of allowable investments may be a sufficient basis for a “control”.
- Relying on controls over the legality of interfund transfers may be inappropriate because the complexity of the transfer requirements is not easily subject to a “routine” set of controls.
 - That is, even if the entity has controls to help assure interfund transfers are legal, the complexity of the statutes usually still requires auditors to “re-perform” the control, which is also a substantive test / evaluation of the transfer’s legality.
 - We believe relatively complex controls (such as nonroutine transfer authorizations) require reperformance, as AU-C 330.A28 infers.
 - However, we only require our staff to reperform a small number of control operations when sampling.
 - For example, if a sampling table required testing 25 control operations, we would test all 25 for evidence the control was applied, but might only reperform 2 or 3 of the complex control operations.
 - Auditor of State staff should follow the control reperformance guidance in our Audit Manual.
 - In conclusion regarding this example, and assuming transfers were material to opinion unit(s):
 - If there were a large number of transfers for similar purposes, controls reliance with limited reperformance of judging their legality might be efficient.
 - However, a large number of transfers for various purposes would suggest more tests of determining their legality (a substantive reperformance). This would tend to render controls reliance as inefficient.

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

- Management's attitudes toward compliance with laws and regulations;
- Legal actions brought against the government, and/or its elected and appointed officials, especially regarding the compliance areas subject to potential controls reliance; and
- Involvement of the governing authority and management in the control structure to assure compliance.

Exhibit 3 to the OCS lists control environment areas for assessment and related points of focus. Auditors should complete the Supplement as part of each audit. AOS staff should document these control environment factors in the AOS' Assessment of Control Environment (ACE). As described above, auditors need only complete sections of this ACE related to laws and regulations directly and materially affecting the determination of financial statement amounts. We have labeled the points of focus in the ACE with direct financial statement effects. Auditors must complete other points of focus only if they intend to rely on compliance controls with indirect financial statement effects.

If control procedures exist to reduce sufficiently the risk that direct and material noncompliance could occur and not be detected on a timely basis, the auditor may test the operating effectiveness of those controls and *significantly reduce substantive testing* of those compliance items. However, auditing standards always require some level of substantive evidence for direct and indirect compliance requirements. To use a controls reliance approach (an assessment that control risk is less than 100%), the auditor must:

1. Identify controls relevant to preventing or detecting material or significant non-compliance with the identified laws and regulations;
 - a. Also document the *basis* for these controls. (The *basis* is documentation supporting the proper operation of the control, such as a signed authorization form.)
2. Test controls to obtain sufficient evidence of the controls' operating effectiveness throughout the audit period;
 - a. Including limited reperformance of complex controls.
3. Document the control tests and results;
4. Unlike Circular A-133 compliance tests, the Auditor of State permits relying on evidence from prior audits' tests of compliance controls' operating effectiveness (i.e. "rotating controls") similar to the guidance in AU-C 330.14(b) and AU-C 330.A40 -- .42. When controls are effective, rotating can enhance efficiency;
5. However, when rotating controls, auditors must carefully consider the guidance in AU-C 330.14(b) and 330.A40 -- .42 (such as a. --- c. below). Since some level of substantive evidence is required, rotating control tests without any substantive tests is insufficient;

When relying on prior audit control tests, auditors should:

- a. Obtain evidence about changes to controls since the prior tests.
 - b. Obtain evidence that controls were still implemented during the current audit period.
 - c. Test operating effectiveness at least every third year (not every third two-year audit).
6. While the auditor’s assessment of inherent and control risk *may* reduce the required nature and / or extent of substantive compliance testing, **some** substantive evidence / testing is necessary for compliance requirements directly and materially affecting the determination of financial statement amounts (similar to AU AU-C 330.18 and 330 A45 --- .50).

Organization of the OCS

Nature of Compliance Requirement	Responsibility / Extent of Testing
Chapter 1	
Compliance requirements directly and often materially affecting the determination of financial statement amounts.	<p>AU-C 250.13: “. . . the auditor's responsibility is to obtain sufficient appropriate audit evidence regarding material amounts and disclosures in the financial statements that are determined by the provisions of those laws and regulations. . . .”</p> <p>AOS Comments:</p> <ul style="list-style-type: none"> • While these requirements impose the highest responsibility on the auditor, we are not opining on them (unlike major Federal program compliance, upon which we <i>do</i> opine). • For example, while the extent of testing requires judgment, it would typically be less than the AICPA’s GAGAS / A-133 Guide Chapter 143 requires to opine on major Federal program compliance. <ul style="list-style-type: none"> ○ In other words, similar to any other misstatement, the auditor bases the extent (and nature) of tests on the assessed risk of “a noncompliance misstatement” in relation to the opinion unit(s) taken as a whole. ○ For example, if two laws directly affect the valuation of two asset accounts equaling 50% and 10% of an opinion unit’s total assets, the auditor requires more evidence to support the asset constituting 50% of total assets. ○ Of course, this example assumes risks are otherwise equal, which often is not the case.
Chapter 2	
Compliance requirements with indirect but potentially material financial statement effects	<p>AOS Comments:</p> <ul style="list-style-type: none"> • AU-C 250.14 requires only (1) inquiry and (2) examination of correspondence with “regulators”. • Per AU-C 250.08: “. . . remain alert to the possibility that other audit procedures applied for the purpose of

	<p>forming an opinion on financial statements may bring instances of identified or suspected noncompliance with laws and regulations to the auditor's attention.”</p> <ul style="list-style-type: none"> ○ Therefore, procedures designed to obtain evidence about financial statement assertions might also yield evidence of noncompliance the auditor may need to report per GAGAS 4.25(a). ○ Some suggested steps in Chapter 2 for indirect noncompliance slightly exceed the “inquiry and examination of correspondence” AU-C 250.14 requires. However, these additional steps always build on tests normally required to support a financial statement opinion. <ul style="list-style-type: none"> ▪ For example, an auditor needs sufficient evidence of the types of investments to support the investment footnote. We believe it is reasonable to request an auditor to use this information to determine whether investments were allowable under RC 135.
<p>Audit tests mandated by law.</p>	<ul style="list-style-type: none"> • The OCS includes procedures to help auditors obtain sufficient, appropriate evidence to assess compliance with these laws. • Though we do not require opinions on compliance, we have required separate reports for some compliance, such as agreed-upon procedures for anti-bullying policies and landfill certifications. <ul style="list-style-type: none"> ○ Because legislation does not require opinions on compliance, for efficiency, we sometimes include violations in the GAGAS report, though we judge materiality for the requirement, not vs. opinion unit amounts. ○ Except we prescribe AUP for anti-bullying policies.
<p>Chapter 3</p>	
<p>Stewardship requirements⁴</p>	<ul style="list-style-type: none"> • Inquiry and limited examination of documents, as described for each test. • Many steps allow rotation / performing every other audit. <ul style="list-style-type: none"> ○ Except, if auditors judge a requirement to directly

⁴ Based on the auditee’s transactions and operations, an auditor may judge some chapter 3 requirements to directly or indirectly (and materially) affect the determination of financial statement amounts. In these instances, auditors should follow guidance for direct or indirect requirements.

	and materially affect financial statement amounts or disclosures, they should meet the requirements for Chapter 1 above.
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Home Rule Powers

Definition

Villages and cities are municipal corporations. They are defined and regulated in Article XVIII of the Ohio Constitution and in Ohio Rev. Code Title 7.

Classification

Municipal corporations with a population of less than 5,000 are villages. The village may be incorporated by the procedures set forth in Ohio Rev. Code Chapter 707, requiring a petition to the county commissioners (Ohio Rev. Code §703.01 and Chapter 707).

Plans of Government

Article XVIII of the Ohio Constitution provides for the formation of municipal corporations. Section 3 confers upon the municipal corporations all powers of local self-government and Section 7 authorizes the municipal corporations to adopt charters setting up their own plans of government. Those municipalities which do not have charters may adopt one of the plans of government set forth by the legislature in Ohio Rev. Code Chapter 705 or may operate under the general provisions of Ohio Rev. Code Title 7.

Home Rule

“Home Rule” is a term used to describe those powers granted to municipal corporations under Article XVIII, Section 3 of the Ohio Constitution, which provides, “municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary, and other similar regulations as are not in conflict with general laws”. These powers were granted in an effort to provide more local control over certain governmental activities, but not to allow complete independence from State government. Because this grant of power derives from the Ohio Constitution, it is superior to laws enacted by the legislature, except where a constitutional limitation allows the legislature to regulate municipalities.

Charter vs. Non-Charter

All municipal corporations have Home Rule powers, but the extent of these powers differ depending upon whether a charter has been adopted. By adopting a charter, the municipal corporation may set up a system of government which differs from the statutory plans. It may provide for the officers and procedures for all governmental functions. Non-charter municipal corporations must comply with all State laws concerning matters of procedural local self-government. Matters of substantive local self-government are not controlled by State laws, regardless of whether or not the municipal corporation has adopted a charter.

Local Self-Government Powers vs. Police Regulations

As previously mentioned, charter governments are basically free from regulation by the legislature in matters of local self-government, but the exercise of police powers cannot conflict with general laws enacted by the legislature.

Local Self-Government Powers

Procedural Local Self-Government Powers are powers which concern the organization of municipal government as well as the procedures under which the municipal corporation must function. Charter governments may deviate from State laws regulating matters of procedural local self-government only by adopting a charter. Examples of these powers are as follows:

1. Structure of government - This pertains to the officers and their functions. Without a charter, municipalities and villages must comply with State laws regulating them;
2. Competitive bidding requirements - State laws determine when competitive bidding is necessary and what procedures must be followed. Only charter governments may set up their own bidding requirements;
3. Initiative and referendum;
4. Appointment and duties of police officers;
5. Election procedures; and
6. Annexation proceedings.

Substantive Local Self-Government Powers

Substantive Local Self-Government Powers are powers which concern the decision making authority of the municipal corporation as well as regulate the conduct of individuals within the municipal corporation. With a few constitutional exceptions, these powers cannot be superseded by State laws. Examples of these powers are as follows:

1. Power to contract - The State cannot, by law, restrict the government's general power to contract;
2. Taxation - There are explicit constitutional limitations provided in Article XVIII, Section 13 and Article XIII, Section 6 of the Ohio Constitution, as it is necessary to provide for coordination of State and local taxation. Otherwise, State laws cannot restrict the government's power to tax;
3. Assessments - This power is limited by Article XIII, Section 6 of the Ohio Constitution;
4. Incurring debt - Laws may be passed by the General Assembly limiting this power; (Article XVIII, Section 13 of the Ohio Constitution);
5. Power to purchase, appropriate, or dispose of property - The decision to purchase, appropriate, or dispose of property is a power of substantive local self-government. However, the procedures used to purchase, appropriate, or dispose of property are matters of procedural local self-government and are regulated by State laws, unless the municipal corporation has adopted a charter;
6. Compensation of employees and officers - This area is purely a matter of substantive local self-government. Statutes regulating many matters of compensation can be overridden by local ordinance;
7. Power to establish, locate, and vacate streets; and
8. Power to restrict the weight of vehicles using the charter government's streets.

Police Regulations

Police regulations are laws enacted to protect the health, safety, and welfare of persons and property. They are aimed at matters of private conduct rather than matters of government. Unlike matters of local self-government, police regulations can never conflict with general laws.

Public Utilities

The power to operate public utilities has a separate and distinct source from the general home rule powers of Article XVIII, Section 3. Article XVIII, Sections 4 and 5 of the Ohio Constitution state that

municipal corporations may provide public utility service for their residents directly or by contracting with others within specified limits.

Compliance Testing

Auditors must consider whether municipal governments have home rule powers enacted under the statutes above. If so, auditors will need to tailor compliance testing accordingly to reflect the applicable home rules and powers afforded those governments. Auditors should review charter legislation, resolutions, and ordinances for charter municipal corporations and tailor their testing procedures accordingly.

Reporting

2011 *Government Auditing Standards (GAGAS)* describes the auditor's compliance reporting obligations:

4.25 When performing a GAGAS financial audit, and auditors conclude, based on sufficient, appropriate evidence, that any of the following either has occurred or is likely to have occurred, they should include in their report on internal control and compliance the relevant information about:

- a. fraud and noncompliance with provisions of laws or regulations that have a material effect on the financial statements or other financial data significant to the audit objectives *and any other instances warranting the attention of those charged with governance*;
- b. noncompliance with provisions of contracts or grant agreements that has a material effect on the determination of financial statement amounts or other financial data significant to the audit objectives; or
- c. abuse that is material, either quantitatively or qualitatively.

4.26 When auditors detect instances of noncompliance with provisions of contracts or grant agreements or abuse that have an effect on the financial statements or other financial data significant to the audit objectives that are less than material but warrant the attention of those charged with governance, they should communicate those findings in writing to audited entity officials. When auditors detect any instances of fraud, noncompliance with provisions of laws, regulations, contracts or grant agreements, or abuse that do not warrant the attention of those charged with governance, the auditors' determination of whether and how to communicate such instances to audited entity officials is a matter of professional judgment.

GAGAS 4.26 requires auditors to communicate immaterial violations warranting management's attention in writing (such as via a management letter). Auditors may choose whether and how to communicate *inconsequential* violations. (Determining *inconsequential* requires auditor judgment. Absent qualitative considerations, it may equate to *trivial*, as described in footnote 8.)

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

Noncompliance Reporting Examples

Noncompliance	Example Evaluation	Reporting
The auditee records premiums received with a debt issuance in a capital project fund.	Ohio law requires recording premiums in a debt service fund (ORC 133.32). Therefore, resources and total assets in the capital project fund are overstated, and understated by similar amounts in the debt service fund. If these funds are in different opinion units, a misstatement occurred. If the two funds are in the same opinion unit (such as RFI), no misstatement occurred, so there is no direct effect. However, the matter is important enough to warrant	Report a finding in the GAGAS report. Also see the <i>Findings for Adjustment</i> section later in this Guide.

	attention by those charged with governance. The auditor would propose an audit adjustment to correct the balances in the two funds.	
Total fund “X” budget expenditures exceed appropriations.	If the budgetary statement or budgetary RSI for the fund reports the negative variance (such as would occur for a major special revenue fund), no misstatement occurred. However, even for funds <i>not</i> included in budget presentations, ⁵ significant over-expenditure of appropriation could endanger the program’s sustainability, so the noncompliance warrants management’s attention.	Report a finding in the GAGAS report.
The government purchased a speculative hedging instrument.	If classified and disclosed properly, no misstatement occurred. However, because it is unauthorized in the ORC, and we assume it poses unnecessary risk of loss to the government, it warrants the attention of those charged with governance.	Report a finding in the GAGAS report.
Internet- or computer-based community school contracts with a nonpublic school for instructional facility space.	Violations require ODE to withhold foundation payments for any students using nonpublic school facilities. This is more in the nature of an indirect <i>penalty</i> per AU-C 250.06(b)(iii) than a direct effect, but we should report it because it could lead to the closing of the community school and therefore requires attention of those charged with governance.	Report a finding in the GAGAS report.

Audit Findings

An audit *finding* is a conclusion of fact an auditor *finds* as part of the audit process. Findings of legal noncompliance in Ohio fall into three categories ⁶ :

- Noncompliance citations,
- Findings for adjustment, and
- Findings for recovery.

Noncompliance Citations

Noncompliance citations should cite the appropriate legal authority (i.e. the *criteria* 2011 GAGAS 4.11 requires in written noncompliance findings). Legal authorities auditors can cite include the Federal

⁵ Assume the fund is not the general or major special revenue fund for a GAAP government:

- Therefore there is no budget presentation for it.
- Accordingly, the auditor would not have designed budget tests for this fund.
- However, if the auditor becomes aware of the over expenditure via other procedures, it is subject to reporting as noncompliance in the GAGAS report.

⁶ *Questioned costs* normally apply only when opining on compliance under SAS 117, such as A-133 audits of Federal programs. This discussion does not pertain directly to questioned costs.

and State constitutions, the United States Code and rules, the Ohio Revised Code and rules, local ordinances, Federal and State court decisions, Federal and State regulations, and opinions of the Ohio Ethics Commission. Auditors may refer to opinions of the Attorney General, AOS Technical Bulletins, and other advisory materials within the text of a finding as additional guidance, but AG opinions, AOS Technical Bulletins, and advisory materials are not legally binding *criteria*.⁷

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

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

Exhibit 1 to the *OCS* sets forth guidelines for the appropriate form for citing legal authority.

2011 GAGAS defines the elements of a finding to include:

4.11 Criteria: The laws, regulations, contracts, grant agreements, standards, measures, expected performance, defined business practices, and benchmarks against which performance is compared or evaluated. Criteria identify the required or desired state or expectation with respect to the program or operation. Criteria provide a context for evaluating evidence and understanding the findings.

4.12 Condition: Condition is a situation that exists. The condition is determined and documented during the audit.

4.13 Cause: The cause identifies the reason or explanation for the condition or the factor or factors responsible for the difference between the situation that exists (condition) and the required or desired state (criteria), which may also serve as a basis for recommendations for corrective actions. Common factors include poorly designed policies, procedures, or criteria; inconsistent, incomplete, or incorrect implementation; or factors beyond the control of program management. Auditors may assess whether the evidence provides a reasonable and convincing argument for why the stated cause is the key factor or factors contributing to the difference between the condition and the criteria.

4.14 Effect or potential effect: The effect is a clear, logical link to establish the impact or potential impact of the difference between the situation that exists (condition) and the required or desired state (criteria). The effect or potential effect identifies the outcomes or consequences of the condition. When the audit objectives include identifying the actual or potential consequences of a condition that varies (either positively or negatively) from the criteria identified in the audit, "effect" is a measure of

⁷ Ohio Rev. Code § 117.20(C) states that the Auditor of State may prepare and disseminate to public offices and other interested parties advisory bulletins, directives and instructions relating to accounting and financial reporting systems, budgeting procedures, fiscal controls and constructions by the Auditor of constitutional and statutory provisions, court decisions and opinions of the Attorney General. These bulletins, directives and instructions are of an advisory nature.

those consequences. Effect or potential effect may be used to demonstrate the need for corrective action in response to identified problems or relevant risks.

4.28. . . . If auditors sufficiently develop the elements of a finding, they may provide recommendations for corrective action.

Auditee Responses to Findings

GAGAS 4.33 – 4.39 establish requirements for obtaining and reporting the auditee’s responses to findings. GAGAS 4.33 states, “. . . auditors should obtain and report the views of responsible officials of the audited entity concerning the findings, conclusions, and recommendations, as well as any planned corrective actions.” GAGAS 4.35 states, “When auditors receive written comments from the responsible officials, they should include in their report a copy of the officials’ written comments, or a summary of the comments received.”

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

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

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

GAGAS 4.38 states that when the audited entity’s comments are inconsistent or in conflict with the findings, conclusions, or recommendations in the draft report, or when planned corrective actions do not adequately address the auditors’ recommendations, the auditors should evaluate the validity of the audited entity’s comments. If the auditors disagree with the comments, they should explain in the report their reasons for disagreement. However, we should always attempt to resolve disagreements before issuing the final report. If we can resolve the differences, the report should not include the client’s original response. (We can include an updated response.) The report would not refer to a disagreement, since the disagreement no longer exists.

If we cannot agree with the client, we should summarize the client’s substantive reasons for disagreeing and our reasons, per GAGAS 4.38. Responses indicating significant disagreement require review by the Center for Audit Excellence Group. (This review requirement does not apply to IPA audits.)

Important: In some instances, we should include most of the text of the client’s response, if the issue is complex or if there is substantial disagreement. However, we discourage including the complete text of lengthy client responses in our reports. For brevity, we prefer a summary within the body of the finding in question, indicating their general agreement or disagreement and planned corrective action. Deciding whether to summarize versus including the complete text requires auditor judgment. When we summarize the response, we must allow the client to read the draft finding, our summary of their

response, and our rebuttal to their response if we disagree with it. We should include their signature on a draft of the finding in the audit documentation indicating they have read the final draft, including their response (and our rebuttal, if there is one).

Findings for Adjustment

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

In these instances, it may be appropriate to make a *finding for adjustment*, that is, a reallocation of receipts or disbursements to the proper funds. Whether the auditor recommends an adjustment, and the manner in which the auditor reports it depends on: (1) the nature of the adjustment, i.e., whether it is material, trivial⁸, or immaterial; (2) whether the auditee agrees with the adjustment; and (3) whether the misallocation of funds also constitutes a violation of law warranting a noncompliance citation.

Potential *findings for adjustments* fall into one of the following categories:

- 1 Material (at the opinion level) adjustments with which the auditee agrees, which have been posted to the accounting records and which are reflected in the audited financial statements;
- 2 Material (at the opinion level) adjustments with which the auditee disagrees and which are neither posted to the accounting records nor reflected in the financial statements;
- 3 Immaterial adjustments which are more than trivial. See discussion in the following section.
 - a. This includes adjustments that are immaterial to opinion units, but material to one or more individual funds.

Note: Auditors base materiality on opinion units when forming their opinion.

However, when assessing whether a finding for adjustment is a material noncompliance finding, auditors should normally consider materiality in relation to ~~both affected individual~~ funds rather than the opinion unit. (Remember, GAGAS 4.25 also requires reporting noncompliance warranting attention by those charged with governance.) Considerations include:

- Judging whether measuring materiality against receipts, disbursements or fund cash balance is the most appropriate.
- Auditors may detect a *finding for adjustment* affecting two funds reported in the same opinion unit. This adjustment would have no effect on the financial statements (and the auditor's opinion thereon), but may still represent reportable noncompliance if it is material to either of the two funds.

⁸ *Trivial* as described in AU-C 450.A2, explains “trivial” is an amount the auditor designates, below which misstatements need not be accumulated. This amount is set so that any such misstatements, either individually or when aggregated with other such misstatements, would not be material to the financial statements, after the possibility of further undetected misstatements is considered.

4 Trivial**Treatment of Findings for Adjustments in Audit Reports**

Adjustments in the first category above based on a violation of legal authority will result in a noncompliance citation in the GAGAS report. The auditor should neither label the noncompliance as a *Finding for Adjustment* nor use a “finding for adjustment statement” (i.e. “In accordance with the foregoing facts, we hereby issue a finding for adjustment . . .”) but the finding should cite the legal criterion and briefly state the client has agreed to and posted adjustments which are also reflected in the financial statements. No qualification of the auditor’s financial statement opinion is necessary because the adjustment corrected the material misstatement.

Adjustments in the second category and which are based on a violation of legal authority will result both in a noncompliance citation and normally a qualification paragraph in the auditor’s financial statement opinion. The noncompliance citation will also include a finding for adjustment statement (i.e. “In accordance with the foregoing facts, we hereby issue a finding for adjustment. . .”).

Adjustments in the third category (quantitatively immaterial but more than trivial) should be reported in the management letter if the misallocation of funds also constitutes a violation of law which warrants a noncompliance citation. However, auditors should report these adjustments in the GAGAS letter whenever qualitative considerations of materiality outweigh the quantitative materiality amounts, or if the auditor deems the matter of sufficient importance that it requires additional “emphasis” by those charged with governance, per GAGAS 4.25.

- If the auditee agrees with the adjustment and has posted it, cite the law violated, but do not use the term *finding for adjustment*; do not include a *finding for adjustment statement*.
- If the auditee disagrees with the adjustment or has not posted it, cite the law violated, label the finding as a *finding for adjustment*, and include a *finding for adjustment statement*.
 - Consistent with unadjusted identified misstatements exceeding trivial, post the adjustment to the Summary of Unadjusted Difference (or similar documentation for IPAs) and carried forward each year to evaluate against the applicable opinion unit.

Trivial noncompliance adjustments will simply be noted in the audit working papers.

Summary of Finding for Adjustment Reporting Treatment

	<i>Material (At the opinion level) adjustments with which the auditee agrees, which have been posted to the accounting records and which are reflected in the audited financial statements:</i>	<i>Material (At the opinion level) adjustments with which the auditee disagrees and which are neither posted to the accounting records nor reflected in the financial statements:</i>	<i>Quantitatively Immaterial adjustments which are more than trivial (including those immaterial to opinion units, but material to one or more individual funds):</i>	<i>Adjustments which are trivial:</i>
GAGAS Report	If based on a violation of legal authority, report a noncompliance citation in the GAGAS report. Do not classify as a <i>finding for adjustment</i> .	If based on a violation of legal authority, report a noncompliance citation in the GAGAS report. AOS staff <u>should</u> include a <i>finding for adjustment</i> statement. (IPAs should not include a finding for adjustment statement.)	If based on a violation of legal authority, report a noncompliance citation in the management letter. However, if the matter is qualitatively material (for example, <u>material at the fund level</u>), or the auditor deems it of increased importance, report a noncompliance citation in the GAGAS report <u>and include a finding for adjustment statement.</u> (IPAs <u>should not include a finding for adjustment statement.</u>)	Not reported in the GAGAS report.
Auditor's report (opinion) on the financial statements	No qualification of the auditor's opinion.	Adjustments which are based on a violation of legal authority will result in a qualified (or adverse) opinion on the financial statements, if the adjustment misstates opinion units.	Adjustments which are qualitatively material and are based on a violation of legal authority may result in a qualified (or adverse) opinion on the financial statements. This requires judgment.	No effect.

	<i>Material (At the opinion level) adjustments with which the auditee agrees, which have been posted to the accounting records and which are reflected in the audited financial statements:</i>	<i>Material (At the opinion level) adjustments with which the auditee disagrees and which are neither posted to the accounting records nor reflected in the financial statements:</i>	<i>Quantitatively Immaterial adjustments which are more than trivial (including those immaterial to opinion units, but material to one or more individual funds):</i>	<i>Adjustments which are trivial:</i>
Management letter	Not applicable	Not applicable	If the misallocation of funds also constitutes a violation of law which warrants a noncompliance citation, a citation will be reflected in the management letter if the matter is quantitatively and qualitatively immaterial. AOS staff should include a <i>finding for adjustment</i> statement if the auditee does not agree to or post the adjustment. (IPAs should not include a finding for adjustment statement. Reporting the noncompliance citation alone is sufficient.)	Not reported in the management letter. Document in the working papers only.

Financial Statement Opinion Qualification Paragraph

Basis for Qualified Opinion

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

Qualified Opinion

In our opinion, except for the effects of the matter described in the *Basis for Qualified Opinion* paragraph, the financial statements referred to above present fairly . . .

We would only include this paragraph if the effect was material to one or more opinion units (in this case, assume the effect was material to the general and bond retirement fund and that both are major funds). The result will be either a qualified ("except for") or adverse opinion. A government can avoid a qualified or adverse opinion only if they adjust their accounting records. A mere commitment by the public office to adjust is insufficient. That is, the auditee has not agreed to the adjustment until she or he has posted it to the accounting system.

Finally, AU-C 450.11(b) requires auditors to consider the effect of uncorrected prior audit adjustments on the current audit. Therefore, auditors should consider whether uncorrected prior findings for adjustment affect the current audit's financial statements.

Findings for Adjustment Procedures for Independent Public Accountants (IPA)

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

IPAs should report a noncompliance finding in their GAGAS report for the matters requiring it as listed above. However, IPAs should not label these as *findings for adjustment* and should not include the "finding for adjustment statement" (i.e. "In accordance with the foregoing facts, we hereby issue a finding for adjustment . . .")⁹. When the IPA believes a finding for adjustment condition exists and the client does not agree with and does not make the adjustment, the following procedures apply.

- As soon as the IPA has evidence of a Findings for Adjustment, the IPA should contact the regional chief auditor.
- The IPA should provide the regional chief auditor with all relevant supporting documentation for the Finding.

⁹ This is to comply with RC 117.12 which states, "IPAs have no authority to make formal findings of illegality, malfeasance, or gross neglect under this division or section 117.23 of the Revised Code."

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

Findings for Recovery

Ohio Rev. Code Section 117.28 authorizes the Auditor of State to report a *finding for recovery* in audit reports when legal action may be appropriate to recover public money or property. It is the policy of the Auditor of State to only issue a finding for recovery in whole dollars. Therefore, all finding for recovery amounts will be rounded down to the nearest whole dollar.

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

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

- Public money has been illegally expended;
- Public money that has been collected has not been accounted for;
- Public money that is due has not been collected; or when
- Public property has been converted or misappropriated.

Each of these is discussed below.

1. Illegal Expenditure

A finding for recovery for an illegal expenditure may be made only where the auditor (after consultation and advice from the Legal Division) has concluded that the public office does not possess the legal authority for the expenditure in question. This generally may occur where the government

either has no statutory authority (or the government exceeded the authority statute provides) for the expenditure or there is no *proper public purpose* for the expenditure.

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

Proper Public Purpose

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

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

1. Whether the expenditure is for or promotes the public health, safety, morals or general welfare;
2. Whether the primary objective is to promote a public purpose, although it may incidentally advance a private interest;
3. If there has been a prospective legislative determination of a proper public purpose.

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

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

In general, if the principal benefit is for the public, an expenditure is not invalid merely because a private party derives an incidental benefit. A public officer's determination that a contemplated expenditure serves a valid public purpose is generally not subject to question unless this determination is "palpably and manifestly arbitrary and incorrect." (Disbursing public money for alcohol will result in a finding for recovery, per Bulletin 2003-05¹⁰ except for purchases made pursuant to Attorney General Opinion No. 2013-023 which states that a county agricultural society may use moneys provided by the state, county, or "other sources" to acquire alcoholic beverages and a liquor permit to sell the beverages at an event that is open to the public and conducted on the society's or county's fairgrounds and retain the revenue derived from the sales, provided (1) the society's constitution and bylaws permit the expenditure; (2) the moneys to be expended are not required to be used for other purposes; and (3) the expenditure is reasonable. Therefore, expenditures for alcohol among agricultural societies meeting these conditions are allowable.)

¹⁰ Note the prohibition on spending public money for alcohol is consistent with the Federal government's prohibition stated in 2 CFR Part 225 (OMB Circular A-87), Appendix B.3.

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

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

2. Collected but Unaccounted For

A finding for recovery for public money collected but unaccounted for, should be made where the auditor, after consultation with and advice from the Legal Division, concludes that public money, as defined in Ohio Rev. Code Section 117.01, has been received by the public office, but cannot be adequately accounted for by authorized disbursements of public moneys.

A mere unidentified shortage of public moneys is a sufficient basis for a finding for recovery, as public officials are *strictly liable*¹¹ without fault to account for public funds entrusted to their care.

However, the Auditor of State's office recognizes that even the most honest employees make errors in recording cash. Therefore, the Auditor of State will not issue FFRs for insignificant cash shortages a cashier reports to management as part of their reconciliation process, if the government's management monitors overages and shortages and suitably follows up on patterns of shortages. Conversely, we may report shortages as FFRs if a government's controls are not in place or are inadequate.¹²

3. Due but Not Collected

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

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

¹¹ See the discussion of *strict liability* later in this Implementation Guide.

¹² See *Best Practices in Cash Handling* in the AOS' Fall, 2007 *Best Practice* publication. You can view this article under the Resources/Publications & Manuals/Best Practice Issues link at www.ohioauditor.gov.

finding for recovery for the amounts in question may be issued against the village and in favor of the State in the village's audit report.

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

4. Public Property Converted or Misappropriated

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

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

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

Issuing Findings for Recovery Before and/or After the Audit Period

Audit engagements are for specified time periods as reflected in the auditor's letter of engagement. The great majority of findings for recovery are therefore based on transactions that have occurred within the period that is currently under audit. Extenuating circumstances may arise which lead auditors to test before and / or after the audit period; however, this is not standard practice.

Determining whether to review transactions and/or issue findings for recovery for transactions that occurred prior to or subsequent to the current audit period requires judgment based on factors such as:

- Suspected or known fraud
- Significant fraud risk factors that are associated with the current finding for recovery
- The magnitude of the finding for recovery
- Judgment as to whether the finding for recovery was an error or deliberate

- Appropriate client requests – careful consideration needs to be given on the type of request, the timing of the request, the purpose of the request, and the documentation given to substantiate the request
- If requested by the AOS Special Audit Task Force to review issues that arise outside the audit period
- The governing authority's involvement in the circumstances surrounding the issue, and its ability to correct the issue on its own
- The impact of information that has come to the auditor's attention involving transactions subsequent to the audit period on the entity's financial condition and whether prudence dictates review of the transactions prior to the next audit.

Since there are numerous variables affecting this determination that will be unique to each finding for recovery, the regional Chief Auditor should consult with the Chief Deputy Auditor or his designee *prior to testing outside of the audit period* to pursue a finding for recovery.

Additional Policies for Findings for Recovery for Auditor of State Audits

If the auditor preliminarily determines to issue a finding for recovery, the auditor should draft the proposed finding and send it, along with all factual information pertinent to the proposed finding, to the Legal Division for review. The Legal Division reviews the proposed finding in the Legal Consultation program folder of the applicable TeamMate project. The Legal Division will approve the Proposed Finding as is, approve with modifications, disapprove, or request more information be submitted by the auditor to evaluate the proposed finding. Once approved by the Deputy Chief Legal Counsel in the Legal Division, the auditor should send draft GAGAS findings to the Center for Audit Excellence for review. The Center for Audit Excellence will also approve the finding's conformance with GAGAS reporting requirements.

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

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

If the person against whom the finding is contemplated responds within the time allowed with something other than a general denial of responsibility, the auditor should evaluate the response. If the auditor believes the response has merit, the auditor should submit it to the Legal Division for consideration. If after the evaluation, the decision is made to delete the proposed finding from the

draft report, the person should be notified of that decision. If the decision is made to retain the finding, the individual should be notified of the opportunity to attend the exit conference or to schedule a separate meeting to discuss the finding.

Post-Audit Conference Procedures

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

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

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

Notice of Finding for Recovery

Note: If a Finding For Recovery has been repaid prior to sending the Notice of Proposed Finding, ~~the letters does not need to be sent~~ neither the *Notice of Proposed Finding* nor the *Notice of Finding* letters should be sent. If the Finding for Recovery is repaid after the Notice of Proposed Finding, do not send a *Notice of Finding*.

When the Clerk of the Bureau certifies an audit report for release, unless the finding has been repaid, the regional office shall send separate copies of the approved *Notice of Finding* (a sample is provided

on the second following page) to each individual named in the Finding for Recovery¹³ and the bonding company(ies). In addition, a copy of the *Letter on Findings for Recovery* should be sent to the entity's statutory legal counsel. If the statutory legal counsel is not the county prosecutor, then the *Letter on Findings for Recovery* should also be sent to the county prosecutor.

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

¹³ IPAs follow different procedures. See the *Finding for Recovery Procedures for Independent Public Accountants (IPA)* discussion later in the Implementation Guide.

Sample NOTICE OF **(PROPOSED)**¹⁴ FINDING

DATE

To: NAME
 STREET ADDRESS
 CITY, Etc.

The Auditor of State [**is auditing**] [has audited] Washington Township, Sandusky County for the period January 1, 201X through December 31, 201X +1.

Ohio Rev. Code 117.28 requires the Auditor of State to issue a finding for recovery when “an audit report sets forth that any public money collected has been illegally expended, or that any public money collected has not been accounted for, or that any public money due has not been collected, or that any public property has been converted or misappropriated...”

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

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

The Township Trustees approved NAME’s salary at \$XX.XX beginning [DATE] (\$XX.XX [PREVIOUS SALARY AND EFFECTIVE DATE]). Overtime pay at time and a half would be \$XX.XX for 201X (\$XX.XX for hours worked during the first pay of 201X at the 201X-1 rate). For the payroll checks issued 1/13/1X, 1/28/1X, 2/11/1X, 2/25/1X, 3/10/1X, 3/25/1X, and 5/27/1X Mr. NAME was paid \$XX.XX for overtime wages. Review of time sheets and payroll records indicated XX hours of overtime worked in 201X (XX hours in 201X-1). As a result, an overpayment of \$XX.XX occurred.

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

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

¹⁴ This example is both for proposed and approved findings for recovery. The **bold** red font language applies to **proposed** notices of findings. However, do not use red font in the letter you issue!

Under Ohio law, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is strictly liable for the amount of the expenditure. *Seward v. National Surety Corp.* (1929), 120 Ohio St. 47; 1980 Op. Att’y Gen. No. 80-074; Ohio Rev. Code Section 9.39; *State, ex. Rel. Village of Linndale v. Masten* (1985), 18 Ohio St.3d 228. Public officials controlling public funds or property are liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen. ~~to the extent that recovery or restitution is not obtained from the persons who unlawfully obtained such funds or property, 1980 Op. Att’y Gen. No. 80-074.~~

Township Officers signed the warrants resulting in improper payments. Township Trustees NAME, NAME, NAME, and Fiscal Officer NAME, and their bonding company, NAME, will be jointly and severally liable in the amount of \$XXX and in favor of the NAME OF FUND to the extent that recovery is not obtained from NAME.

[If a Finding for Recovery were to be issued, the] [The] Auditor of State **[would be]** [is] required, under Ohio Revised Code section 117.28, to forward a copy of the audit report containing this Finding For Recovery to the statutorily designated legal counsel for the public office, who then has the discretionary authority to institute legal proceedings to collect the amount alleged to be due the public office. Under certain circumstances such action might also be instituted by the Attorney General of the State of Ohio. If legal counsel does not pursue legal proceedings, the Finding For Recovery will be considered to be a debt owed to a public office and will be certified to the Attorney General of the State of Ohio for collection.

In the event the Finding For Recovery is certified to the Ohio Attorney General for collection, collection costs, statutory interest and fees may be assessed and added to the total amount of the finding in accordance with Ohio Revised Code section 131.02. Once certified, the Ohio Attorney General will assign the matter for collection and may hire special counsel to collect the debt as authorized by Ohio Revised Code section 109.08. Prior to certification, you may pay the debt directly to the public office, and it is requested that you provide copies of such payment to the Auditor of State, Legal Department, 88 East Broad Street, Columbus, Ohio 43215, or to ffrquestions@ohioauditor.gov. After certification, payments must be sent to the Ohio Attorney General.

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

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

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

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

Sincerely,

Dave Yost
Auditor of State

Draft Letter on Findings for Recovery

[Date]

[Name of legal counsel to public office]
[Title]
[Agency/Company Name]
[Street Address, PO Box]
[City, State Zip]

Re: **Audit of [Name of Entity]**
Released on [Date]

Dear [Name]:

Enclosed please find a certified copy of the audit report in the above captioned matter. During our audit, we found expenditures of public money that are subject to recovery under Ohio Rev. Code Section 117.28, which states, in part:

Where an audit report sets forth that any public money has been illegally expended, or that any public money collected has not been accounted for, or that any public money due has not been collected, or that any public property has been converted or misappropriated, the officer receiving the certified copy of the report...may, within one hundred twenty days after receiving the report, institute civil action in the proper court in the name of the public office to which the public money is due or the public property belongs for the recovery of the money or property and prosecute the action to final determination.

Although this statute references a 120 day period for your office to notify the Ohio Attorney General in writing of any legal action taken, if you intend to pursue such action, you must notify the Auditor of State within 30 days after the date of this letter. Within that period, please contact the Legal Division, at (614) 728-7116 or by e-mail at FFRQuestions@ohioauditor.gov. If we do not receive notice from your office within 30 days, the Finding For Recovery will be certified to the Attorney General for collection. Upon certification, collection costs, statutory interest and fees may be assessed and added to the total amount of the finding in accordance with Ohio Revised Code section 131.02. Once certified, the Ohio Attorney General will assign the matter for collection and may hire special counsel to collect the debt as authorized by Ohio Revised Code section 109.08.

In the event that you are pursuing a payment plan with the debtor, please contact the Auditor of State. Upon receipt of an acceptable payment plan that includes appropriate terms and conditions, the Auditor of State will not certify the Finding For Recovery to the Ohio Attorney General. This will avoid the collection process and associated costs.

The enclosed audit includes the following findings for recovery:

[Details of who, what, amount, any other relevant information and total amount to be recovered]

Pursuant to Ohio Revised Code Section 9.39, public officials are liable for all public money received or collected by them or by their subordinates under color of office. (See, e.g., AOS Bulletin 2008-006). Even if a referral does not include a finding for recovery against the office holder or other persons employed by the public office acting in a supervisory capacity, please be advised the Ohio Attorney General or appointed legal counsel is not precluded from naming those persons in an action for recovery. The policy reasons behind making public officials accountable for the funds that they receive include the need to prevent frauds against the public, to protect public funds, and to place final responsibility for public funds on the shoulders of the officials charged with the collection and care of such funds. *Village of Linndale v. Maston* (1985) 18 Ohio St.3d 228.

Thank you for your attention to this matter.

Sincerely,

Dave Yost
Auditor of State

[name]
Chief Auditor
[region] Region

cc: Legal Division, Attention: Denise Carr
County Prosecutor

Additional Considerations

- Where a proposed finding for recovery has been paid in whole prior to the completion of the audit, the audit report finding should disclose the repayment as a “Finding for Recovery Repaid Under Audit.”
- The Auditor of State does not generally issue Findings for Recovery where the amount in question aggregates¹⁵ \$500 or less. However, auditors should consult on all potential findings for recovery, regardless of the amount, with the legal department and the Center for Audit Excellence (prior to pursuing) because in some cases, findings for recovery will be issued for amounts less than \$500. (Example: disbursing public money for alcohol will always result in a finding for recovery per Bulletin 2003-05, except as updated by Attorney General Opinion No. 2013-023 which states that a county agricultural society may use moneys provided by the state, county, or “other sources” to acquire alcoholic beverages and a liquor permit to sell the beverages at an event that is open to the public and conducted on the society’s or county’s fairgrounds and retain the revenue derived from the sales, provided (1) the society’s constitution and bylaws permit the expenditure; (2) the moneys to be expended are not required to be used for other purposes; and (3) the expenditure is reasonable. Therefore, expenditures for alcohol among agricultural societies meeting these conditions are allowable.) All findings for recovery are to be reported in the GAGAS report due to their significance. Additionally, all findings for recovery are subject to the documentation requirements listed in AOS Audit Division Advisory Memo 2012-01. Potential findings for recovery that are not deemed findings for recovery during the consultation process due to falling below the amount threshold, will be reported in the Management Letter as non-compliance citations (not findings for recovery).
- If a government identifies a finding for recovery *before* the auditors do and the entity or individual repays the money before the audit report is issued, the auditor should not report the matter as a Finding for Recovery. However, the auditor should evaluate the issue for other possible matters of audit interest, such as the possibility of fraud or reportable internal control weaknesses. Also, the matter might be a citation for an illegal expenditure of money or other violation of law. Conversely, the entity’s identification and resolution of the matter may indicate the internal control structure is properly detecting and correcting errors, in which case the auditor might determine not to report the matter.
- The auditor should determine the amount of a finding for recovery during audit field work. The method used to calculate the amount must be clearly set forth in the working papers. Any partial payment or reimbursement made prior to completing the audit should be noted in the audit report with appropriate credit given when calculating the amount.
- If a finding for recovery is issued because public property has been converted or misappropriated, the amount of the finding should reflect the fair market value of the property at the time that it was discovered to be missing. The basis for determining this amount must be disclosed in the working papers.

¹⁵ For example, if five employees were all overpaid (for the same cycle-payroll for example) and they were each overpaid by \$100, then we would issue a finding for recovery because the payroll cycle had an aggregate of \$500 in findings for recovery (5 X \$100).

- Where the amount of the finding for recovery may change prior to or after the release of the audit report, the auditor should date the amount. Example: "As of December 31, 20XX, this amount is \$X,XXX." In these instances, the method of calculating the amount should be stated in the audit report so that the amount can be calculated on the day of repayment.

Finding for Recovery Procedures for Independent Public Accountants (IPA)

Ohio Rev. Code 117.12 prohibits IPAs from issuing Findings for Recovery. IPAs should report these matters exceeding \$500 (and any alcohol purchase¹⁶ and other findings for recovery determined by the Auditor of State, regardless of amount) as noncompliance findings, but they should not label them as *finding for recovery* and the finding should not state: "In accordance with the forgoing facts, and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public money collected but not accounted for (or illegally expended, etc.) is hereby issued against . . ." ¹⁷

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

- An IPA should NOT inform anyone other than the Auditor of State of possible Findings for Recovery either orally or in writing.
- As soon as the IPA has an indication there could be any Findings for Recovery, regardless of the amount, the IPA should contact the regional chief auditor.
- The IPA should provide the regional chief auditor with all relevant supporting audit documentation for the Finding.
- Once the regional chief becomes aware of the potential Finding for Recovery, the regional chief should follow Advisory Memo 2012-01 which requires all potential Findings for Recovery, regardless of amount, to be reviewed by Legal and the Center for Audit Excellence. When submitting potential Findings for Recovery related to an IPA Report to the Center, the IPA should submit the information to ~~assigned regional Center consultant~~ the regional Chief Auditor who will send a notification to ipareport@ohioauditor.gov alerting the Center of a possible Finding for Recovery. The center will put a hold on the report until the finding is approved. The regional Chief Auditor should submit the Finding to the regional consultant and the AOS legal division for approval. Once the Finding is approved by the AOS Legal Division and the regional consultant it should be forwarded to ipareport@ohioauditor.gov. The center will put the finding in the certification letter and release the report upon receiving the approved finding. ~~When the Center~~

¹⁶ ~~Except for alcohol purchases pursuant to Attorney General Opinion No. 2013-23 which states that a county agricultural society may use moneys provided by the state, county, or "other sources" to acquire alcoholic beverages and a liquor permit to sell the beverages at an event that is open to the public and conducted on the society's or county's fairgrounds and retain the revenue derived from the sales, provided (1) the society's constitution and bylaws permit the expenditure; (2) the moneys to be expended are not required to be used for other purposes; and (3) the expenditure is reasonable. Therefore, expenditures for alcohol among agricultural societies meeting these conditions are allowable.~~

¹⁷ This is to comply with RC Section 117.12 which states, "IPAs have no authority to make formal findings of illegality, malfeasance, or gross neglect under this division or section 117.23 of the Revised Code."

~~consultant responds to the Region on a potential Finding that is related to an IPA audit, the assigned Center consultant will carbon copy the IPA Report mailbox () with the resulting action. This will allow the matter to be identified for follow up during the review of the IPA audit report.~~

- The Legal Division and the Center will review the potential Finding and if it is determined that a Finding will be issued, the regional chief will submit all needed supporting documentation and the Notice of Proposed Findings letters to the Legal Division.
- The Legal Division will review the proposed Finding and may ask the regional chief auditor or the IPA for additional information.
- After the Legal Division has approved the Finding, the regional chief auditor or his/her designee will obtain the limited waiver from the IPA¹⁸ and send the *Notice of Proposed Finding* to all applicable parties. The applicable parties are normally given five days to respond. If they respond, the chief auditor evaluates the response along with the Legal Division and decides whether to withdraw or modify the Finding.
- The regional chief auditor will send a copy of the approved finding to the Chief Auditor, Center for Audit Excellence or his designee for inclusion with the Acceptance Letter and send the *Notice of Finding* to the applicable parties upon releasing the report.

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

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

Example Findings for Recovery

An example *finding for recovery* is included below:

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

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

¹⁸ NOTE: ORC 4701.19 provides that an IPA's audit documentation remains the property of the IPA, even in the possession of the Auditor of State's office, and states that these materials are not public records available for public disclosure. However, we will request a limited waiver of this statutory provision after the AOS Legal Department has approved the proposed finding for recovery. This limited waiver will request the IPA to make audit documentation supporting the proposed finding for recovery available for inspection by the person named in the finding and legal counsel. This waiver will include only documentation directly related to the finding for recovery. Documents subject to the waiver will also become subject to public records disclosure.

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

Responsibility for Paying Findings for Recovery: Strict Liability Laws

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

Thus, public officials (including fiscal officers) must be aware of their role in approving expenditures and safeguarding amounts collected, and take steps to prevent mistakes, errors or omissions resulting in the loss of public funds. In the context of an AOS audit, both the supervising/approving officer or employee and the fiscal officer may be liable for such losses, and may therefore be included as a party liable for repaying a *finding for recovery*, even if they did not personally account for the transaction. The Auditor of State issued Bulletin 2010-01 clarifying this policy for county officials. However, general concepts included in the Bulletin apply to all public offices.

When a public official (including fiscal officers) is named in a finding for recovery based on the strict liability laws, auditors should modify the wording of the Finding accordingly. An example follows:

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

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

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

Under Ohio law, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is made is strictly liable for the amount of the expenditure. Seward v. National Surety Corp., 120 Ohio St. 47 (1929); 1980 Op. Atty Gen. No. 80-074: Ohio Rev. Code Section 9.39; State, ex.rel. Village of Linndale v. Masten, 18 Ohio St. 3d 228 (1985). Public officials controlling public funds or property are liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen to the extent that recovery or restitution is not obtained from the persons who unlawfully obtained such funds or property, 1980 Op. Atty Gen. No. 80-074. (~~← Remove this paragraph if the finding was repaid under audit.~~)

Jim Smith and Bill Wilson and their bonding company Ace Insurance Corp. will be jointly and severally liable in the amount of \$15,000 and \$110,000, respectively, and in favor of the City of Anyplace. (~~← Remove this paragraph if the finding was repaid under audit.~~)

Referring Audit Reports

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

Ohio Rev. Code Section 117.27 also requires the Auditor of State to provide a certified copy of the audit report to any officer required by state law, municipal or county charter, or municipal ordinance to act as legal counsel to the officers of the public office. If no officer is required by state law, municipal or county charter, or municipal ordinance to act as legal counsel, a copy shall be filed with the prosecuting attorney of the county within which the fiscal office of the public office is located. Field auditors who prepare reports containing Findings for Recovery should include ~~with a copy of the certified audit report~~ to the appropriate statutory legal counsel or the local prosecutor's office on the recipient spreadsheet submitted to the Clerk of the Bureau.

Referring Findings for Recovery to the Attorney General

Ohio Rev. Code Section 117.28 requires the Auditor of State to notify the Attorney General of Findings for Recovery, whether or not repaid before the audit report's release. Letters are automatically sent by the Auditor of State's office when Findings for Recovery are reported during report submission.

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

Ethics Commission Referrals

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

IRS, Ohio Department of Taxation, School Teachers Retirement System, and OPERS Comments

The Internal Revenue Service, the Ohio Department of Taxation, School Teachers Retirement System and the Ohio Public Employees Retirement System have requested that we notify them when AOS issues reports (in the case of the IRS, School Teachers Retirement System and Taxation, also management letters) containing comments or findings pertaining to their respective agencies. The Auditor of State has agreed to these requests. Auditors and the Center for Audit Excellence should send a copy of the released report or management letter, including the number of the finding related to the referral to Referrals@ohioauditor.gov. The Center for Audit Excellence division will notify these agencies via email based upon being informed by either Auditor of State regional auditors or the Center for Audit Excellence division that such reports (or management letters) exist.

Referrals to Other Agencies

When referring an audit report to any other State or Federal agency, the regional audit office will prepare and send the referral. The Regional office will also notify the Auditor of State's Legal Division of the referral prior to sending the referral. The regional office should retain a copy of the

cover letter. Currently, there is no requirement to send referral to School Employees Retirement System, ~~School Teachers Retirement System~~ and Ohio Police & Fire. We should also not send a referral letter when (1) the audit report already describes the problem and (2) we are certain the person we are sending the letter to is on the audit report distribution list. For example, OMB Circular A-133 already requires sending a copy of the audit report to cognizant or oversight agencies.

Appendix A – Budgetary and Certain Related Requirements (Applies to Chapter 1 Part A)

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

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

Exhibit 5 includes matrices showing the applicability of this chapter’s requirements to various governmental types.

Legal Level of Budgetary Control

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

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

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

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

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

.103 Governments may present the budgetary comparison schedule using the same format, terminology, and classifications as the budget document, or using the format, terminology, and classifications in a statement of revenues, expenditures, and changes in fund balances. Regardless of the format used, the schedule should be accompanied by information (either in a separate schedule or in notes to RSI) that reconciles budgetary information to GAAP information, as discussed in this section and in Section 1700. Notes to RSI should disclose the budgetary basis of accounting and excesses of expenditures over appropriations in individual funds

presented in the budgetary comparison, as discussed in Section 2300, "Notes to Financial Statements," paragraph .106.5 [NCGAI 6, ¶5; GASBS 34, ¶131; GASBS 37, ¶19]

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

Comprehensive Annual Financial Reports

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

There is no prescribed minimum for reporting budget-versus-actual information for governments using the Auditor of State's cash-basis financial reports. These reports routinely present this information at an aggregated level (i.e. combined fund type) as footnote disclosures. However, auditors should still test legal compliance at the legal level of budgetary control.

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

Also note: Virtually all Chapter 5705 requirements applicable to *subdivisions* apply to municipalities that have adopted a charter under Article XVIII, § 7 of the Ohio Constitution. (See 5705.01(A) & (B).)

APPENDIX A-1 Transfers and Advances (Applies to Chapter 1 Part A)

Transfers Defined

Questions sometimes arise about what constitutes a *transfer* as defined under Ohio Rev. Code Sections 5705.14, 5705.15, and 5705.16. Therefore, the AOS has developed this appendix to assist auditors in determining the proper accounting and legal noncompliance reporting treatment for transfers.

This guidance is nonauthoritative. It is the AOS's interpretation of Ohio Rev. Code Sections 5705.14, 5705.15, and 5705.16 requirements. Where conflicts arise, AOS will defer to well-reasoned opinions of legal counsel.

Fund accounting segregates legally restricted resources. Therefore, transferring cash restricted for one purpose to a fund with a different restricted purpose potentially permits spending the transfer in violation of its restricted purpose. Ohio Rev. Code Sections 5705.14 - .16 attempt to prevent these violations.

Not all interfund transactions are *transfers* as defined above and, therefore, not all interfund transactions are subject to Ohio Rev. Code Sections 5705.14 - .16. *Cash transfers* are not defined in the Ohio Rev. Code. Therefore, auditors must rely on common-use definitions.

GASB Cod. 1800.102 defines transfers as "flows of assets (such as *cash* or goods) without equivalent flows of assets in return and without a requirement for repayment." In other words, a transfer is a nonreciprocal (i.e. *nonexchange transaction*) from one fund to another. It might be useful to think of transfers as "gifts" from one fund to another.

Some Transactions That May Not Be Transfers

Intrafund Appropriation Transfers

Certain transactions do not qualify as transfers as contemplated by Ohio Rev. Code Sections 5705.14 - .16 and GASB Cod. 1800. For example, *intrafund* appropriation “transfers” are not transfers because there is no cash transaction. Intrafund appropriation “transfers” amend spending authority for one appropriation account and increase another account by the same amount, ***within the same fund***.

Interfund services provided and used

“Interfund services provided and used,” as defined in GASB 1800.102, also do not qualify as transfers. GASB classifies Interfund services provided and used as ***exchange transactions***, related to services “purchased and sold” between funds. Most payments to internal service funds, as described in GASB Cod. C50.130, are examples of interfund services provided and used.

Subdivisions should report these transactions as disbursements in the paying fund (i.e., charge the function, etc. benefiting from the exchange) and receipts in the fund providing the service or asset, etc. Subdivisions should not classify these as *transfers*; rather, they are often *charges for services*. These transactions are also not *transfers* under Ohio Rev. Code Sections 5705.14 - .16 because, ***presumably***, a fund is paying for a service that does not violate its restricted purpose. However, if a payment does violate a restriction, then auditors should cite noncompliance (*subject to Findings for Adjustment as discussed in the OCS Implementation Guide*).

Important: Auditors should also be alert for payments classified as ***interfund services provided*** or ***used*** far exceeding a reasonable value of the exchange. Excessive amounts are not payments for services; they are “gifts” (i.e. transfers). For example, the general fund may charge utility funds for billing and other administrative services. If these costs arise, auditors should determine that the charges are reasonable in relation to the salaries and other costs incurred. Also, a subdivision should base an insurance internal service fund charges for services (or *interfund premiums* or other reasonably-descriptive revenue caption) upon an actuarial measurement or other method C50 permits. These charges may include an additional amount for a ***reasonable/prudent*** cushion. Subdivisions should record any charges *unreasonably* exceeding these amounts as *transfers*, subject to Ohio Rev. Code Sections 5705.14 - .16. Determining ***reasonable*** in both examples above requires careful judgment. We normally should question only significant, unsupported amounts.

Interfund Loans/Advances

GASB 1800.102 classifies “interfund loans” as exchange transactions, because they require repayment in an equal amount. However, auditors should note that a *reasonable* interest charge is permissible. Under GAAP, interfund loans are always fund liabilities, regardless of maturity. Also, AOS regulatory-basis entities should ***disclose*** interfund payables/receivables, if significant. The Ohio Rev. Code does not provide for interfund loans; therefore, the AOS issued Bulletin 97-03 (OCS 1-7), permitting *advances*. OCS 1-7 requires:

- “In order to advance cash from one fund to another, there must be statutory authority to use the money in the fund advancing the cash for the same purpose for which the fund receiving the cash was established”
- The debtor fund may repay advances from the creditor fund. That is, the AOS would not deem repaying advances to violate restrictions on use of the debtor’s fund resources
- So using advances properly avoids the primary concern regarding transfers. That is, an allowable advance should not violate restrictions on resource use.

AOS does not believe advances satisfying these requirements require court approval under Ohio Rev. Code Section 5705.16. *However, advances do require a formal resolution by the taxing authority.* On a cash basis, subdivisions should classify the cash payment/repayment as *advances out / in*, not *transfers*.

Under GASB Codification 1800.102, if repayment is not expected within a reasonable time, the interfund loans should be reduced and the amount that is not expected to be repaid should be reclassified (i.e. reported) as a *transfer* from the fund that made the loan to the fund that received the loan. Therefore, like any other receivable, auditors should consider whether interfund loans are properly valued (i.e. collectible). When reclassified as a *transfer*, the transfer(s) must satisfy all requirements included in Ohio Rev. Code Sections 5705.14 - .16 retroactively (appropriation, board resolution, court approval, etc.).

Note: Subdivisions can also sell securities between funds pursuant to Ohio Rev. Code Section 133.29. This is commonly known as “manuscript debt.” These sales and subsequent repayments are not “transfers”. (Refer to Chapter 1 for additional compliance guidance and audit steps applicable to manuscript debt.)

Interfund Reimbursements

GASB Cod 1800.102 defines “Interfund Reimbursements” as “repayments from the funds responsible for particular expenditures or expenses to the funds that initially paid for them.” However, under the terms of Ohio Rev. Code Section 5705.10, such reimbursements would be illegal transfers (*subject to possible Finding for Adjustment*) if the fund initially paying violated restrictions on its resource use.

Also, GASB states that “reimbursements should not be displayed in the financial statements.” This means that subdivisions should not use a *reimbursement* caption in a statement of activities / changes in fund balance, etc. It is generally preferable to *advance* money per Bulletin 97-03; however, advances may not always be possible. FEMA grants often require reimbursements, so they provide a useful reimbursement example subdivisions sometimes encounter. AOS Bulletin 98-013 describes other acceptable alternatives to treating these transactions as a *reimbursement* on the face of the financial statements. While this Bulletin is specific to FEMA grants, subdivisions can generally apply the guidance therein to any reimbursement transaction.

Transfers Clarification:

Allocation of Unrestricted Receipts to Restricted Funds

Once a government deposits unrestricted money into a fund with a restriction, it *is* restricted money subject to Ohio Rev. Code Sections 5705.14 - .16. For example, a subdivision may have enacted a resolution allocating unrestricted income taxes to a permanent improvement fund. Once the income tax fund receipts the income taxes collected under this authority, the income tax money is now restricted to permanent improvements.

Audit Adjustments

Audit adjustments, including Findings for Adjustment, adjust fund cash balances. However, even if subdivisions used the “transfers in/out” line-item to post audit adjustments into their financial statements, audit adjustments are *not* transfers subject to Ohio Rev. Code Sections 5705.14 - .16. Audit adjustments are corrections to restore cash to funds **permitted** to spend it. Therefore, audit adjustments should never result in cash being spent contrary to its restricted purpose.

Governing board approval

Ohio Rev. Code Section 5705.14 requires a resolution of the taxing authority passed by an affirmative vote of two-thirds of the members (except a simple majority is sufficient for transfers from the general fund). Sometimes, subdivisions fail to obtain the required approval prior to making transfers. Auditors should cite noncompliance for all unapproved transfers; however, there is no need to issue a Finding for Adjustment if the transfer(s) is(are) otherwise allowable under statute. **Meaning, AOS will not require local governments to reverse the effects of unapproved transfers in their financial statements or accounting systems if local governments otherwise possessed statutory authority to make such transfers. For example, we will not require a finding for adjustment for an unapproved transfer from the general fund to the food service fund because Ohio Rev. Code section 5705.16 expressly permits this transfer. However, we would issue a noncompliance citation in this example because Ohio Rev. Code section 5705.14 requires approval by the governing board.**

Ohio Rev. Code Sections 5705.14 - .16 do not provide for retroactive approval of transfers. Therefore, subdivisions cannot retroactively approve transfers after auditors bring them to their attention in an attempt to eliminate the noncompliance citation.

Transfers to Debt Service Funds

Debt issued under the authority of Ohio Rev. Code Chapter 133 must be retired through a governmental Debt Service Fund type. Other types of debt may generally be retired within other fund types. *However, a separate account, special cost center, etc. should be used to separately track the sinking fund requirements.* Typically, it is preferable to retire the debt within the fund type that will be generating the revenues legally obligated to make the debt service payments.

For example, assume sewer fund debt covenant mandates a sewer debt service fund. Assume the covenant mandates periodic transfers from the sewer operating fund to the sewer debt service fund. These transfers are not subject to Ohio Rev. Code Sections 5705.14 - .16 because these transfers *fulfill* rather than *violate* restrictions on using the money. Therefore, auditors should not cite noncompliance for “transfers” to a debt service fund if this is an appropriate use of the money in the fund making the “transfer.” Subdivisions should record these transactions as *transfers* in their financial statements and make the appropriate disclosures described below.

Transfer Disclosure Requirements

GASB 38 ¶ 15 (Codification 2300.106 and .127) requires the following disclosures for *transfers*:

- A general description of the principal purposes of interfund transfers.
- The intended purpose and the amount of significant transfers that meet either or both of the following criteria:
 - Do not occur on a routine basis—for example, a transfer to a wastewater enterprise fund for the local match of a federal pollution control grant.
 - Are inconsistent with the activities of the fund making the transfer—for example, a transfer from a sewer operating fund to the debt service fund (*because the subdivision mistakenly believed it was required to establish a separate governmental debt service fund to retire the non-Chapter 133, sewer-related debt*).

APPENDIX A-2 Direct Charges (Applies to Chapter 1 Part A)

DIRECT CHARGES

(i.e. payments not requiring fiscal officer certification / encumbering)

The AOS interprets ORC 5705.41 and 5705.46¹⁹ to authorize direct charges (certification/encumbering under 5705.41(D)) is not required).

Per 5705.41(D)(3), “Contract” as used in this section excludes current payrolls of regular employees and officers. Therefore, the following payroll-related costs do not require certification:

- Salaries
- Employers’ Retirement Contributions
 - Ohio Public Employees Retirement System
 - Social Security
 - Medicare
 - Volunteer Firemen’s Dependents Fund
 - Ohio Police and Fire Pension Fund
 - Other Employer’s Retirement Contributions
- Employee Fringe Benefits
 - Workers’ Compensation
 - Unemployment Compensation

The following items do not involve a contract, therefore, do not require certification:

- Tax Collection Fees – Expenses and fees as deducted by the county auditor, county treasurer and the state department of taxation for the collection and administration of taxes including advertising for delinquent taxes (Updated definition to include advertising for delinquent taxes).
- Taxes and Assessments – General property taxes paid on newly acquired real estate and assessments paid on real property. Also included are state sales taxes collected on items sold of a taxable nature and later paid to the state.
- Election Expenses – Election expenses deducted by the county auditor
- Deposits Refunded – Utility Deposits Refunded
- Deposits Applied – Utility Deposits Applied

The following items require board action; therefore, do not require certification:

- Transfers
- Advances

The following items do not require certification per 5705.44,

- Payments from the utility operating fund do not require certification. (However, payments from utility grant funds DO require certification.)

Note: *Advertising and payments to another political subdivision* require a certification because direct charges are not allowed.

Advertising – Includes expenses for publication of official notes, ads, legal advertising in newspapers and periodicals.

¹⁹ AOS interprets payroll to include Salaries, Employer’s Retirement Contributions, Worker’s Compensation, and Unemployment Compensation.

Payment to Another Political Subdivision – Payments made to another political subdivision for contracted services provided to the township, such as fire protection, county health fees, police services, EMS, garbage and refuse.

APPENDIX B – Contracts and Expenditures (Applies to Chapter 2 Part B)

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

APPENDIX C – Debt (Applies to Chapter 1 Part C)

The power of a taxing authority to incur debt for public purposes is a power of local self-government provided by the Ohio Rev. Code through Chapter 133, the Uniform Public Securities Law. In addition, the taxing authority's charter, ordinances and resolutions may place further restrictions (or, in the case of a charter, fewer restrictions) on the taxing authority's power to incur debt.

In issuing debt, many governments either engage bond counsel or use a local financial institution to advise them regarding compliance with debt-related laws. Using legal counsel experienced with debt compliance can help a government meet Ohio Rev. Code Chapter 133 (and other requirements.) Auditors should consider this when determining the nature and extent of testing in this area.

Note: There are many Rev. Code Sections authorizing governmental debt, in addition to Chapter 133. Many requirements from other chapters refer to, and require compliance with certain Ohio Rev. Code §133 sections. It is impractical to describe every Rev. Code debt requirement in the OCS. Chapter 1 part C focuses on some of the most common requirements applicable to local government securities. **However, auditors may need to refer to other Ohio Rev. Code sections, and amend the steps in OCS Chapter 1 Part C for debt issued under other Ohio Rev. Code sections.**

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider whether the government has utilized the assistance of bond counsel for all debt issuances. Typically, bond counsel will evaluate (and possibly opine) on a government's compliance with certain laws and regulations related to debt *issuance*. An opinion or evaluation by bond counsel may lower the risk of noncompliance pertaining to recent debt *issuances*. However, an opinion from bond counsel will not mitigate the risk of noncompliance relating to covenants, debt retirement or reporting related to transactions or events occurring *after* the debt's issuance.

For example: where bond counsel was involved with debt issues we are testing, we usually can rely on documents they have prepared or opined on, as evidence that legislation authorizing the securities complies with statute. However, bond counsel would not "audit" the government's *subsequent* compliance with requirements. For example, we would not expect bond counsel to determine how the government accounted for debt proceeds or whether the proceeds were spent for authorized purposes.

APPENDIX C-1 Tax and Revenue Anticipation Notes (Applies to Chapter 1 Part C)

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§118.17. Issuance of local government fund notes</p> <p>Municipal corporation, county, or township (during fiscal emergency periods)</p>	<p>Current operating expenses the commission approves</p>	<p>§118.17(C)(3) states in part “Current revenue notes” means debt obligations described in 133.10 or Chapter 5705. of the Ohio Rev. Code or any other debt obligations issued to obtain funds for current operating expenses.”</p>	No
<p>§118.23. Current revenue notes issued during fiscal emergency</p> <p>Municipal corporation, county, or township (during fiscal emergency periods)</p>	<p>Current operating expenses the commission approves</p>	<p>§118.23(A) states “This section shall be applicable to current revenue notes approved by the financial planning and supervision commission or, when authorized by the commission, the financial supervisor pursuant to §118.15 of the Ohio Rev. Code and issued by a municipal corporation, county, or township pursuant to §133.10 of the Ohio Rev. Code and this section during a fiscal emergency period.”</p> <p>§118.23(G) states “ Current revenue notes of a municipal corporation, county, or township issued during a fiscal emergency period may mature on or before the thirty-first day of December of the calendar year in which issued, may, when issued in anticipation of the collection of current tax revenues, anticipate one-half of the amount that the budget commission estimates the subdivision will receive from all property taxes that are to be distributed to the subdivision from all settlements of taxes that are to be made in the remainder of that year, other than taxes to be received for the payment of debt charges, and less all advances, and may, if issued during the last two months of the calendar year in which the fiscal emergency period commenced, anticipate one-half the estimated amount of ad valorem property taxes levied in that year for the tax budget of the following year which were authorized to be levied by the municipal charter or otherwise authorized by vote of the electorate of the municipal corporation, county, or township and may mature not later than the thirty-first day of December of the year following the year in which such notes are issued, notwithstanding (i.e. in spite of) section 133.10 of the Ohio Rev.</p>	No

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10 Code.”	Reference to ORC §133.24
<p>§118.24. Advance tax payment notes</p> <p>Municipal corporation, county, or township (during fiscal emergency periods)</p> <p>Note: <i>Advance tax payment notes</i> are not common, but involve a taxpayer prepaying taxes. In return, the government issues a note to the taxpayer. The face amount of the note = the tax prepayment + interest the government credits to the taxpayer over the life of the note. Therefore, these are discount notes. The taxpayer receives credit for the prepayment + accrued interest upon redemption.</p>	<p>For purposes the commission approves per §118.15</p>	<p>§118.24(H) states, “As used in this section <i>interest factor</i> means the amount calculated based on an interest rate, as determined by the fiscal officer as of the date of such note, that would have been paid by the municipal corporation, county, or township on current tax revenue notes, maturing in six months, issued on that date pursuant to §133.10 of the Ohio Rev. Code. The face amount of the note less the amount of the advance tax payment made in the purchase of such note, shall be and shall be deemed to be interest paid and received on such note.”</p> <p>§118.24(I) states “The aggregate principal amount of advance tax payment notes, together with the aggregate principal amount of any current revenue notes issued under §133.10 of the Ohio Rev. Code in anticipation of ad valorem property taxes for the same year that are outstanding at the time of issuance, shall not exceed one-half of the amount that the budget commission estimates the municipal corporation, county, or township will receive from all property taxes that are to be distributed to the municipality from all settlements of taxes that are to be made in the remainder of that year, after subtracting from such amount advances thereon and property taxes to be received for the payment of debt service on debt obligations or to be deposited with a fiscal agent as provided in §118.20 of the Ohio Rev. Code.”</p>	<p>No</p>
<p>§306.49. Annual tax levy; purpose</p> <p>Regional Transit Authority</p>	<p>Current expenses (§133.10) or Permanent improvements (§133.24)</p>	<p>§306.49(A) States in part: The regional transit authority may borrow money in anticipation of the collection of current revenues as provided in §133.10 of the Ohio Rev. Code.”</p>	<p>§306.49(A) <i>also</i> states in part “. . . the regional transit authority may levy upon the property within its territorial boundaries a tax, for all purposes other than bond debt charges, not in excess of five mills annually on the total value of all property as listed and assessed for taxation for any period <u>not exceeding ten years</u>. Such election shall be called, held, canvassed, and certified in the same manner as is provided for elections held pursuant to §5705.191 (refers to ORC</p>

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			<p>§133.24. See separate description for §5705.191 below.) of the Ohio Rev. Code. On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, in the amount and manner and at the times as are provided in §5705.193 (this section refers to §133.24 and is for permanent improvements) of the Ohio Rev. Code.</p>
<p>§1545.21. Election of tax levy for use of district; anticipation bonds</p> <p>Park District</p>	Acquiring and improving land	No	<p>§1545.21(B) states in part “When a tax levy has been authorized as provided in this section or in §1545.041 of the Ohio Rev. Code, the board of park commissioners may issue bonds²⁰ pursuant to §133.24 of the Ohio Rev. Code in anticipation of the collection of such levy, provided that such bonds shall be issued only for the purpose of acquiring and improving lands.”</p>
<p>§3313.483. Closing or delaying opening for financial reasons prohibited; plan for implementing reductions; loans agreement</p> <p>School District</p>	Permits obtaining various types of debt, <u>including</u> “§133.10 notes,” up to the amount of the deficit the AOS certifies.	<p>§3313.483(E)(4) states “Pursuant to the terms of such a loan, a board of education may issue its notes in anticipation of the collection of its voted levies for current expenses or its receipt of such state funds or both. Such notes shall be issued in accordance with division (E) of §133.10 of the Ohio Rev. Code and constitute Chapter 133 securities to the extent such division and the otherwise applicable provisions of Chapter 133. of the Ohio Rev. Code are not inconsistent with this section, provided that in any event §133.24 and §5705.21 and divisions (A), (B), (C), and (E)(2) of §133.10 of the Ohio Rev. Code do not apply to these notes.”</p>	No
<p>§3318.052. Payment of district’s portion of basic project cost from available tax proceeds; credits; issuance of securities</p> <p>School District</p>	Permanent improvement levy for a stated number of years, per <u>§5705.21 or 5705.218</u>	No	<p>§3318.052 (E) states in part “Issue securities to provide moneys to pay all or part of the district’s portion of the basic project cost of its classroom facilities project in accordance with an agreement entered into under division (A) of this</p>

²⁰ Ohio Rev. Code § 1545.21(B) mentions a bond issuance per Ohio Rev. Code § 133.24. However, § 133.24 only refers to notes. We will not object to the legal form of the debt if the government follows the advice of their legal or bond counsel.

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			section. Securities issued under this section shall be Chapter 133. securities and may be issued as general obligation securities or issued in anticipation of a school district income tax or as property tax anticipation notes under §133.24 of the Ohio Rev. Code. ”
§3381.16. Tax levy upon affirmative vote; authorized uses of funds; anticipation notes and borrowing; resubmission of levy Regional Arts and Cultural District	To grant money to other arts and cultural organizations or for the District’s operating or capital asset costs.	§3381.16(A) states in part: The district may borrow money in anticipation of current revenues as provided in §133.10 of the Ohio Rev. Code. ”	§3381.16(A) <i>also</i> states in part “On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, in the amount and manner and at the times as are provided in §5705.193 (this section refers to §133.24 and is for permanent improvements) of the Ohio Rev. Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy.
§4582.14. Tax levy; anticipatory notes Port Authority	Any allowable port authority expense including debt charges.	§4582.14 states in part, “The port authority may borrow money anticipating in anticipation of the collection of current revenues as provided in §133.10 of the Ohio Rev. Code. ”	§4582.14 <i>also</i> states in part “. . . the port authority may levy upon the property within its jurisdiction a tax, for all purposes including bond debt charges, not in excess of one mill annually on the total value of all property as listed and assessed for taxation for any period <u>not exceeding five years, except that when the tax is for the payment of bond debt charges, such tax shall be for the life of the bond indebtedness.</u> On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds thereof, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in §5705.193 of the Ohio Rev. Code (this section refers to 133.24 and is for permanent improvements), for the issuance of notes by a county in anticipation of the proceeds of a tax levy.
§4582.40. Tax levy to provide necessary funds Newly created port authorities	Any allowable port authority expense including debt charges.	§4582.40 states in part “. . . The port authority may borrow money in anticipation of the collection of current revenues as provided in §133.10 of the Ohio Rev. Code. ”	§4582.40 <i>also</i> states in part “. . . the port authority may levy upon the property within its jurisdiction a tax, for all purposes including bond debt charges, not in excess of one mill annually on the total value of all property as listed and assessed

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			for taxation for any period <u>not exceeding five years, except that when the tax is to pay bond debt charges, the tax shall be for the life of the bond indebtedness.</u> On approval of such a levy, notes may be issued in anticipation of the collection of the proceeds of the tax levy, other than the proceeds to be received for the payment of bond debt charges, in the amount and manner and at the times as are provided in §5705.193 (this section refers to 133.24 and is for permanent improvements) of the Ohio Rev. Code, for the issuance of notes by a county in anticipation of the proceeds of a tax levy.
<p>§5705.191. Approval of excess levy; issuing notes</p> <p>Any subdivision, other than the board of education of a school district or the taxing authority of a county school financing district</p>	<p>If it is necessary to levy a tax in excess of the 10 mill limit for any of the purposes in ORC 5705.19, or to supplement the general fund for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified.</p>	No	<p>§5705.191 states in part: “The notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have principal payments during each year after the year of their issuance <u>over a period not exceeding the life of the levy</u> anticipated, and may have a principal payment in the year of their issuance.”</p> <p>An entity can also levy for operating expenses. The notes cannot exceed 50% of the proceeds of the levy. Notes issued for operations can mature over the life of a fixed-term levy. For an unlimited life levy, these notes must mature within 10 years.</p>
§5705.193. County	Permanent Improvement	No	§5705.193 states in part “Such notes shall be issued as provided

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			in §133.24 of the Ohio Rev. Code, shall have <u>principal payments during each remaining year of the life of the levy</u> after the year of their issuance, and may have a principal payment in the year of their issuance.”
§5705.194 School District	Emergency levy	No	<p>§5705.194 states in part “After the approval of the levy and prior to the time when the first tax collection from the levy can be made, the board of education may <u>anticipate a fraction of the proceeds</u> of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.</p> <p>The notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have <u>principal payments during each year after the year of their issuance over a period not to exceed five years</u>, and may have principal payment in the year of their issuance.”</p>
§5705.198. Levy by joint recreation district	Parks and recreational purposes per 5705.19(H)	No	<p>§5705.198 (limited to a fraction of the proceeds of that levy) “such notes shall be issued as provided in §133.24 of the Ohio Rev. Code.” These notes must mature by December 31 of the 5th year after the levy’s passage.</p>
§5705.21. Special election on additional school levy School District	Permanent improvements	No	<p>§5705.21(D)(2) states” After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of §5705.19 of the Ohio Rev. Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in <u>each year over a period of five years after the issuance of the notes.</u></p> <p>The notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have principal payments during each year after</p>

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			<p>the year of their issuance over a period <u>not to exceed five years</u>, and may have a principal payment in the year of their issuance.”</p> <p>§5705.21(D)(3) states “After approval of a levy for general permanent improvements for a continuing period of time [i.e. an unlimited life levy], the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of <u>years, not exceeding ten</u>, after the issuance of the notes.</p> <p>The notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have principal payments during each year after the year of their issuance over a <u>period not to exceed ten years</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.217. Special elections on additional tax for school district purposes; anticipation notes</p> <p>School District</p>	<p>Current operating expenses and permanent improvements</p>	<p>No</p>	<p>§5705.217(B)(3) provides that “after approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each <u>year over a specified period of years, not exceeding ten</u>, after the issuance of the notes.</p> <p>The notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have <u>principal payments during each year after the year of their issuance over a period not to exceed ten five years</u>, and may have a principal payment in the year of their issuance.”</p>

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
<p>§5705.218. Special elections on school district bond issues and tax levies; anticipation notes</p> <p>School Districts</p>	<p>Bonds or BAN for permanent improvements and current operating expenses</p>	<p>No</p>	<p>§5705.218(F)(3) states “After the approval of a tax for general, on-going permanent improvements under this section, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected in <u>each year over a specified period of years, not exceeding ten</u>, after issuance of the notes.</p> <p>Anticipation notes under this section shall be issued as provided in §133.24 of the Ohio Rev. Code. Notes issued under division (F)(1) (for current operating expenses) mature within the next fiscal year). BAN issued under (F)(2) (specific permanent improvements) shall have principal payments during each year after the year of their issuance <u>over a period not to exceed five years</u>, and may have a principal payment in the year of their issuance. Notes issued under division (F)(3) (ongoing permanent improvements) shall have <u>principal payments during each year after the year of their issuance over a period not to exceed ten years</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.23. Resolution for special levy for public library; submission to electors</p> <p>Public Library</p>	<p>Current expenses or for constructing specific permanent improvements</p>	<p>No</p>	<p>Yes - §5705.23 states in part “After the approval of a levy on the current tax list and duplicate to provide an increase in current expenses, and prior to the time when the first tax collection from such levy can be made, the taxing authority at the request of the board of library trustees may anticipate a fraction of the proceeds of such levy and issue anticipation notes in an amount not exceeding fifty per cent of the <u>total estimated proceeds of the levy to be collected during the first year of the levy</u>.</p> <p>After the approval of a levy to provide revenues for <u>the construction or acquisition of</u></p>

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			<p><u>any specific permanent improvement or class of improvements</u>, the taxing authority at the request of the board of library trustees may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a <u>period of ten years</u> after the issuance of such notes.</p> <p>The notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have principal payments during each year after the year of their issuance over a <u>period not to exceed ten years</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5705.24. County tax levy for children services</p> <p>County</p>	<p>Operating or capital improvement expenditure necessary for the support of children services and the care and placement of children</p>	No	<p>§5705.24 states in part “After the approval of such levy and prior to the time when the first tax collection from such levy can be made, the board of county commissioners may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not to exceed fifty per cent of the total estimated proceeds of the levy throughout its life.</p> <p>Such notes shall be issued as provided in §133.24 of the Ohio Rev. Code, shall have principal payments during each year after the year of their issuance <u>over a period not exceeding the life of the levy</u>, and may have a principal payment in the year of their issuance.”</p>
<p>§5748.05. Income tax anticipation notes</p> <p>School District</p>	<p>Current operating expenses or permanent improvements</p>	No	<p>§5748.05 states in part “a board of education may anticipate a fraction of the proceeds of the tax and issue anticipation notes in an amount not exceeding fifty per cent of the total estimated proceeds of the tax <u>to be collected for its first year</u> of collection as estimated by the tax commissioner. The anticipation notes are Chapter 133. securities and shall be issued as provided in §133.24 of the Ohio Rev.</p>

Tax and Revenue Anticipation Notes			
Ohio Rev. Code § and Entities to which it applies	Purpose	Reference to ORC §133.10	Reference to ORC §133.24
			Code as if property tax anticipation notes.”
§5748.08. Election on income tax and bond issue as one ballot question School District	Permanent improvement bonds or BAN	No	§5748.08(G) states “After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with §5748.05 of the Ohio Rev. Code. Any anticipation notes under this division shall be issued as provided in §133.24 of the Ohio Rev. Code , shall have principal payments during each year after the year of their issuance over a <u>period not to exceed five years</u> , and may have a principal payment in the year of their issuance.”

APPENDIX D – Reporting (Applies to Chapters 1 & 2 Part D)

The Auditor of State prescribes and requires by rules, that certain public offices prepare and file annual financial reports in accordance with generally accepted accounting principles. Certain public offices may also be required by statute, rule, or agreement to prepare and file performance or other special purpose reports.²¹

APPENDIX E – Deposits and Investments (Applies to Chapter 2 Part E)

Depository and investment regulations for political subdivisions from Ohio Rev. Code Chapter 135 generally apply to all public offices, other than to charter municipalities which have exempted themselves by charter or ordinance and community schools.^{22 23} (See the OCS Legal Matrices Appendix for more specific guidance

²¹ Ohio Administrative Code (OAC) 117-10-01(B) requires county and independent agricultural societies to record and report all financial transactions in accordance with Appendix A of the Auditor of State manual, “Uniform System of Accounting for Agricultural Societies.” This Manual is available at www.ohioauditor.gov, under *Resources/Publications & Manuals*.

As a matter of accountability and internal control, each public office should account for financial activities using an accounting system which demonstrate legal compliance and follows a documented chart of accounts appropriate for its particular activities; and is supported by appropriate subsidiary ledgers/journals. When a public office fails to maintain such an accounting system, auditors should consider whether the failure constitutes a reportable control deficiency or noncompliance. Also see Step 2-4 as it relates to accounting systems.

²² While charter governments can exempt themselves from Ohio Rev. Code Chapter 135, they cannot exempt themselves from Ohio Constitutional requirements. Therefore charter governments cannot purchase equity securities, because Ohio Constitution Article VIII, Sections 4 and 6 prohibit public bodies from becoming a “stockholder in any joint stock company, corporation or association.”

²³ In some cases, *cash held by a fiscal agent* may not be public moneys subject to Ohio Rev. Code Chapter 135. Ohio Rev. Code §135.01(k) defines public moneys of a political subdivision as “all such moneys coming lawfully into the possession

regarding the applicability of the requirements in chapter 2 part E to particular entity types.) Auditors should design audit procedures based on charter municipalities’ own investment and deposit provisions. Provisions of Chapter 135 relating to counties are separate from those pertaining to other subdivisions.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider whether governments have adopted detailed deposit and investment policies and historically complied with those policies. Additionally, adequate training, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with deposits and investments requirements.

In assessing the adequacy of *policies*, remember ORC 135 *is* a policy in many respects. For example, it prescribes allowable investments, collateral requirements, etc. designed to help safeguard assets. However, Step 2-7 requires governments to adopt their own policy based on RC 135.

APPENDIX E-1 Federal Agencies (Applies to Chapter 2 Part E)

Discount notes	US Govt. Guaranteed?
Fed Farm Credit Banks..... (Instrumentality)	No
FNMA (Fannie Mae)..... (Instrumentality)	No
Fed Home Loan Bank..... (Instrumentality)	No
Variable Rate Notes	
Student Loan Marketing Assn (Sally Mae) (Instrumentality)	Not directly
Small Business Administration (Agency)	Face value + int.
Agency for International Development (Agency)	Face value + int.
Coupon Securities	
FNMA (Fannie Mae)..... (Instrumentality)	No
Fed Home Loan Bank..... Instrumentality)	No
Bank for Co-ops (Instrumentality)	No
Federal Land Banks (Instrumentality)	No
World Bank (International Agency)	No
Private Export Funding Corp..... (Instrumentality)	No
Mortgage pass-through securities	
GNMA (Ginny Mae) (Agency)	Principal + int.
FHLMC (Freddie Mac) (Instrumentality)	No

This information is from GFOA’s *Investing Public Funds*, Page 115. It describes many of the agencies with which governments invest. If a government invests with an agency not on this list, the financial statement preparer and the auditor need another source to determine whether the Federal government insures the agency’s securities.

or custody of the treasurer of the state or the treasurer of any subdivision.” Moneys held by a trustee (e.g., for entities participating in certain asset pools such as the OASBO Expanded Asset Pool program) are not considered public moneys until they are disbursed to the political subdivision. Therefore, these moneys are excluded from Ohio Rev. Code Chapter 135 requirements until they are spent. Such moneys would also be disclosed as uncollateralized deposits for reporting purposes under GASB 40.

APPENDIX E-2 GASB No. 40 (Applies to Chapter 2 Part E)

GASB 40 paragraph 6 (Codification I 50.127) requires governments to *briefly* describe policies related to the following risks for deposits and investments, *if* the government has instruments exposed to those risks:

<u>Risk</u>	<u>Deposits</u>	<u>Investments</u>
Credit		√
Custodial credit	√	√
Concentration of credit		√
Interest rate		√
Foreign currency	√	√

The 2013-2014 GASB *Comprehensive Implementation Guide* (the CIG) question 1.5.2 implies the Ohio Revised Code is a source of policies requiring GASB 40 disclosure. A summary of Ohio Rev. Code requirements related to the risk disclosures of GASB Cod. I 50.128 -- .134 follows.

The Ohio Rev. Code is not the only source of potential policies requiring disclosure. For example, locally adopted policies and charter provisions may also contain policies requiring disclosure. Financial statement preparers must read GASB 40 and should refer to the CIG for more information when preparing GASB 40 disclosures.

ORC section	OCS Step	Requirement	Related GASB 40 Risk
§135.14 §135.35(A)(10)	2-6 2-10	Per Ohio Rev. Code §135.01(O) (2) , no load money market funds must <u>(1) be registered as investment companies under the Investment Company Act of 1940 and have the highest credit rating issued by at least one national raters.</u> (Note: Per Imp. Guide Q. 1.9.12, governments should disclose the rating for mutual funds even if the fund limits investments to obligations the U.S. government guarantees, since it is the fund’s rating that is of concern, not its underlying investments.)	Credit risk
§135.14 §135.35(C) §135.35(O)	2-6 2-10	<ul style="list-style-type: none"> • Investments generally must mature within 5 years of purchase. • HB 225, effective 3/22/12, temporarily increases this to ten years (ORC 135.35(C)). • HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it. <ul style="list-style-type: none"> ○ A county may hold investments purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years. 	Interest rate

		<ul style="list-style-type: none"> • HB 225, effective 3/22/12, After an affirmative vote of the County’s investment Advisory Committee, up to 25% of the portfolio can be invested in securities that mature longer than ten years (ORC 135.35(O)). 	Concentrations of credit
§135.14& §135.35	2-6 2-10	Repurchase agreements cannot exceed 30 days.	Interest rate
§135.35(C) §135.13	2-6 2-10	<ul style="list-style-type: none"> ▪ CDs counties purchase must mature within 5 years. ▪ HB 225, effective 3/22/12, temporarily increased this to ten years (ORC 135.35(C)). Additionally, after an affirmative vote of the County’s investment Advisory Committee, up to 25% of the portfolio could be invested in securities that mature longer than ten years. • HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it. <ul style="list-style-type: none"> ○ A county may hold CDs purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years. ▪ CDs other subdivisions purchase must mature as follows: <ul style="list-style-type: none"> - Interim CDs: within one year. - HB 209, effective 3/22/12, eliminates the 1 year maturity limitation on certificates of deposit of interim deposits (ORC 135.13) and HB 225, also effective 3/22/12, temporarily increases the maturity period from five years to ten years (ORC 135.35(C)). Therefore CDs can have a maturity of ten years. ▪ HB 487, effective 9/10/12, repealed this HB 225 provision. Therefore, investments purchased on or after 9/10/12 revert to the prior requirement: they must mature within 5 years from the date of settlement unless the investment matches a specific obligation or debt, and the investment advisory committee specifically approves it. <ul style="list-style-type: none"> ○ A county may CDs purchased between 3/22/12 and 9/10/12 until their maturity of up to 10 years. - Inactive CDs: No later than the expiration of the depository agreement. <p>All nonnegotiable and <u>some</u> negotiable (also</p>	Interest rate

		referred to as “brokered CDs”) CDs are deposits. Therefore they are not subject to disclosing policies related to interest rate risk.	
§135.14 & §135.35	2-6 2-10	The market value of securities for repurchase agreements must exceed the principal value by ≥ 2%.	Interest rate
§135.14& §135.35	2-6 2-10	Repurchase agreement securities must be delivered into the custody of the treasurer or governing board or an agent. ²⁴	Custodial credit
§135.45(B)(1)	(Tested by the State Region)	STAR Ohio must maintain the highest letter or numerical rating provided by at least one nationally recognized standard service.	Credit
§135.14 & §135.142	2-8	Commercial paper + bankers’ acceptances cannot exceed 25% of a government’s investment portfolio	Concentrations of credit
§135.14 & §135.35	2-8 2-10	Commercial paper must be rated in the highest classification by at least two nationally-recognized rating services	Credit
§135.14 & §135.35	2-5 2-10	Commercial paper and bankers’ acceptances must mature within 180 days. (270 days for a county’s commercial paper.)	Interest rate
§135.18 & §135.181	2-9	Depositories must collateralize deposits.	Custodial credit
§135.35	2-10	A county’s corporate debt investments must mature within 2 years of purchase.	Interest rate
§135.35	2-10	A county’s corporate debt investments cannot exceed 15% of its investment portfolio	Concentrations of credit
§135.35	2-10	A county’s corporate debt investments must be rated in 1 of the 2 highest categories by 2 ratings organizations.	Credit
§135.35	2-10 ²⁵	A county’s foreign debt investments must mature within 5 years of purchase.	Interest rate
§135.35	2-10	A county’s foreign debt investments cannot exceed 1% of its investment portfolio	Concentrations of credit
§135.35	2-10	A county’s foreign debt investments must be rated in 1 of the 3 highest categories by 2 ratings organizations.	Credit
§135.13, §135.14 §135.144 & §135.35	2-6, 2-8 2-10	Authorized investments	*

* Note: In additions to the risk-related policies above, GASB Codification I50.125 requires disclosing investments the Ohio Rev. Code (or other legal or contractual provisions) authorize. The asterisked Ohio Rev.

²⁴ The following general guidance can be used to determine whether securities are held in trust or by counterparty, but in the government’s name (vs. not in the government’s name). If the government receives a statement in their name, identifying the specific investments, auditors can assume the member’s internal records identify the government as owner.

²⁵ Foreign currency risk should not apply because the statute requires “all interest and principal shall be denominated and payable in United States funds.”

Code Sections / OCS steps list authorized investments.

Exhibit 1 – Citation Format

PRESCRIBED FORMS FOR CITATION OF LEGAL AUTHORITY

The Auditor of State and independent public accountants (IPAs) performing audits of public offices pursuant to Ohio Rev. Code Sections 115.56(B), 117.11, or 117.43, must follow legal authority in determining “whether the laws, ordinances, and orders pertaining to [a public] office have been observed, and whether the requirements and rules of the auditor of state have been complied with” Ohio Rev. Code Section 117.11(A). Legal authorities which may be cited in an audit report may include the Federal and State constitutions, the United States Code, the Ohio Revised Code, the Ohio Administrative Code, Federal and State court decisions, Federal and State regulations, opinions of the Attorney General, opinions of the Ethics Commission, and local ordinances and charters. Also, as described in *Government Auditing Standards*, non-compliance with provisions of contracts or grant agreements should be reported.

You should use the following forms of citation in all reports, letters, memoranda, opinions, and other documents if you are on the professional staff of the Auditor of State or are an IPA acting under contracts pursuant to Ohio Rev. Code Sections 115.56, 117.11(B), or 117.43.

Statutory Citations

Citations to the Ohio Revised Code should be in the following form:

Ohio Rev. Code § 325.19

Ohio Rev. Code Chapter 325

Ohio Rev. Code Title 3

Citations to the United States Code should be in the following form:

26 U.S.C. § 3402(a)

Attorney General Opinions

Opinions should be cited by year and opinion number in the following form:

1993 Op. Atty. Gen. No. 93-004 or 1993 Op. Att’y Gen. No.93-004

Court Cases

All citations to a reported case should use the following form:

Parsons v. Ferguson (1976), 46 Ohio St.2d 389

↓	↓	↓	↓	↓
1	2	3	4	5

The elements of such a citation include:

1. The title of the case (italicized);
2. The date (in parentheses).
3. The volume number of the reporter in which the case is reported;
4. The abbreviation for the reporter; and

5. The page number at which the case commences.

The following abbreviations should be used:

<u>Reporter</u>	<u>Abbreviation</u>
Ohio State Reports	Ohio St.
Ohio State Reports, Second Series	Ohio St.2d
Ohio State Reports, Third Series	Ohio St.3d
Ohio Reports	Ohio
Ohio Appellate Reports	Ohio App.
Ohio Appellate Reports, Second Series	Ohio App.2d
Ohio Appellate Reports, Third Series	Ohio App.3d
Ohio Miscellaneous	Ohio Misc. Or Ohio Misc.2d
Ohio Bar Reports	Ohio B.
Ohio Opinions	Ohio Op.
Ohio Opinions, Second Series	Ohio Op.2d
Ohio Opinions, Third Series	Ohio Op.3d
Ohio Decisions	Ohio Dec.
Ohio Decisions, Reprint	Ohio Dec. Reprint
Ohio Circuit Court Decisions	Ohio C.C. Dec.
Ohio Circuit Court Reports	Ohio C.C.
Ohio Circuit Court Reports, New Series	Ohio C.C. (n.s.)
Ohio Circuit Decisions	Ohio Cir. Dec.

If a case has not been reported, it should cite to the case *name*, docket number, court, and the date of the most recent (disposition). For example:

Collins v. Ferguson (July 22, 1980), FRANKLIN App. No. 80-AP-245, unreported.

Ohio Administrative Code

Citations to the Ohio Administrative Code should be by code section and date in the following form:

Ohio Admin. Code § 117-08-01

Federal Regulations

Federal administrative rules and regulations should be cited by title and section number to the Code of Federal Regulations in the following manner:

47 C.F.R. (Part, if known) § 609 (year).

Ohio Ethics Commission Advisory Opinions

Opinions of the Ethics Commission should be cited by year and opinion number in the following form:

1976 O.E.C. No. 76-008 or Ohio Ethics Comm'n, Advisory Op. No. 76-008

Special Legislation

Citations to special (uncodified) legislation enacted prior to January 4, 1971, should be cited by name, year of session, page number, and year of enactment in the following manner:

An Act to establish the Bucyrus, Oceola, and Upper Sandusky Free Turnpike Road, 1845 Ohio Laws 128 (1845)

Citations to such legislation enacted after January 3, 1971, should be cited by name, year of session, page number, and year of enactment as follows:

Am. S. B. No. 96, 1979 Ohio Legis. Bull 5-142 (1979)

Federal and Ohio Constitution

Cite in the following form:

U.S. Const. Art. III, Section 2

Ohio Const. Art. II, Section 20

Municipal Ordinances

In citing municipal ordinances, give the name of the municipality first, followed by the name of the code, section, or subdivision, and the year of publication:

Hilltown, Codified Ordinances, Section 133.05 (1977) Uncodified ordinances should be cited by name of municipality, number or name of the ordinance, and the exact date of adoption:

Middleville, Ordinance to Regulate the Conduct of Scarlet Women (1883)

Exhibit 2 – Public Officers’ Bond

Please keep the following in mind:

- 1 Bond required by ordinance: The Exhibit lists only those municipal officers who are required by statute to give a bond. Other municipal officers may be required to give bond by ordinance passed by the municipal corporation's legislative authority. Ohio Rev. Code §§733.69 through 733.71, provide guidance on this matter. All municipal officers who must give bond by ordinance must do so before entering upon the duties of office, unless the code provides otherwise. Such bonds are prepared by the law director (or village solicitor) and are filed with the municipal auditor (or clerk). The legislative authority determines the amount of the bond, with the mayor's approval. (The mayor's bond is approved by the legislative authority.) All such official bonds are conditional upon the faithful performance of the duties of office.

- 2 Bonds of certain county employees: In addition to the bond requirements for county officers listed in the Exhibit, Ohio Rev. Code Section 325.17 authorizes certain county officers (auditor, treasurer, probate judge, sheriff, clerk of courts, engineer and recorder) to appoint and employ the necessary assistants, clerks and deputies to manage the business of the office. Each officer may, at his discretion, require these employees to give bond to the state. The amount is fixed by the officer, the surety is approved by him, and the bond is conditioned for the faithful performance of the employee's official duties. All such bonds are filed with the county treasurer.

Some individuals who must give bond may be covered under a blanket bond. Others must obtain a bond in the individual's name only. Where it is provided by statute that an officer shall file a bond before entering upon the discharge of the duties of the office, that bond must be an individual official bond. If the requirement is not included in the statute, then an umbrella or blanket bond will satisfy the bonding requirement. 1965 Op. Atty. Gen. No. 65-087.

COUNTY BUILDING COMMISSIONER

STATUTORY REFERENCES:	Ohio Rev. Code Sections 153.24 and 153.21
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	In the same amount as required of members of the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State and approved by the judge of Court of Common Pleas.
CONDITIONED UPON:	The faithful and honest discharge of the duties of office.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	County
APPROVED BY:	Judge of the Court of Common Pleas.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	A county building commission is neither mandatory nor permanent, but exists only when created pursuant to Ohio Rev. Code Section 153.21.

COUNTY COMMISSIONER

STATUTORY REFERENCE:	Ohio Rev. Code Section 305.04.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bond/surety company is used, it must be approved by the probate judge of the county.
CONDITIONED UPON:	Faithful discharge of the official duties of the office, and for the payment of any loss or damage that the county may sustain by reason of the bonded official's failure in performing his duties.
FILED/DEPOSITED WITH	County Treasurer.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the county.
APPROVED BY:	Probate judge of the county.
TERM OF BOND	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of official duties.

PROSECUTING ATTORNEY

STATUTORY REFERENCES:	Ohio Rev. Code Section 309.03 and 309.11 (official bonds for all county officers); Ohio Rev. Code Section 325.12(D) (FOJ Bond).
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND	Not less than \$1,000 in amount fixed by the Court of Common Pleas or the Probate Court (official bond); Not less than official salary, to be fixed by the Court of Common Pleas or Probate Court (FOJ bond).
GIVEN WITH/SIGNED BY:	Official bond: a bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrance). If a bonding/surety company is used, it must be approved by the Court of Common Pleas or the Probate Court. FOJ bond: a surety approved either by the Court of Common Pleas or Probate Court.
CONDITIONED UPON:	Faithful discharge of the official duties, and to pay over all monies received by him in his official capacity.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Official bond: Board of County Commissioners charged to the faithful discharge of the official duties, and to pay over all general fund of the County.
APPROVED BY	The Court of Common Pleas or the Probate Court.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of official duties (official bond); before payment of FOJ monies (FOJ bond).
COMMENTS:	The Prosecuting Attorney prepares, in legal form, the bonds of all other county officers. Ohio Rev. Code Section 309.11. He must insure that all bonds are accepted, signed, indorsed and deposited with the proper officer. <u>No bond shall be accepted or approved for any county officer until the prosecuting attorney has inspected it and certified it to be sufficient.</u>

COUNTY SHERIFF

STATUTORY REFERENCES:	Ohio Rev. Code Section 311.02 (official bond); Ohio Rev. Code Section 325.071 (FOJ bond).
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000 nor more than \$50,000, in an amount to be fixed by the Board of County Commissioners (official bond); not less than official salary, to be fixed by the Court of Common Pleas or Probate Court (FOJ bond).
GIVEN WITH/SIGNED BY:	Official bond: a bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners. FOJ bond: a surety approved either by the Court of Common Pleas or the Probate Court.
CONDITIONED UPON:	Faithful performance of all duties (official bond); Faithful discharge of all official duties and to pay over all monies received by him in his official capacity (FOJ bond).
FILED/DEPOSITED WITH:	County Auditor (official bond); County Treasurer (FOJ bond).
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners (official bond), the Court of Common Pleas or the Probate Court (FOJ bond).
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Within 10 days after receiving his commission and before the first Monday of January next after his election (official bond); before payment of FOJ monies (FOJ bond).
COMMENTS:	<p>The Board of County Commissioners may require the Sheriff, at any time during his term of office, to give additional sureties on his official bond, or to give a new bond.</p> <p>No judge or clerk of any court or attorney at law shall be a surety (act as a guarantor) on a sheriff's bond.</p> <p>If a sheriff fails to give timely bond, or fails to give additional sureties on such bond (or a new bond) within 10 days after he has received notice that the Board so requires, the Board shall declare the office of such sheriff vacant.</p>

COUNTY CORONER

STATUTORY REFERENCE:	Ohio Rev. Code Section 313.03.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000 nor more than \$50,000 in an amount to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.
CONDITIONED UPON:	Faithful performance of the official duties of office.
FILED/DEPOSITED WITH:	County Auditor.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.
COMMENTS:	<p>The Board of County Commissioners may require the coroner, at any time during his term of office, to give additional sureties on his bond, or to give a new bond.</p> <p>No judge or clerk of any court or attorney at law shall be a surety (act as a guarantor) on a coroner's bond.</p> <p>If a coroner fails to give timely bond, or fails to give additional sureties on such bond (or a new bond) within 10 days after he has received notice that the board so requires, the board shall declare the office of such coroner vacant.</p>

COUNTY ENGINEER

STATUTORY REFERENCE:	Ohio Rev. Code Section 315.03.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$2,000 nor more than \$10,000, in an amount to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.
CONDITIONED UPON:	Faithful performance of the official duties of office.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

COUNTY RECORDER

STATUTORY REFERENCE:	Ohio Rev. Code Section 317.02.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$10,000, in an amount to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.
CONDITIONED UPON:	Faithful discharge of the official duties of office.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

COUNTY AUDITOR

STATUTORY REFERENCE:	Ohio Rev. Code Section 319.02.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000 nor more than \$20,000, in an amount to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State, or two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a bonding/surety company is used, it must be approved by the Board of County Commissioners.
CONDITIONED UPON:	Faithful discharge of the official duties of office.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon of the duties of office.
COMMENTS:	If an auditor-elect fails to give bond on or before the day on which he is required to take possession of his office, such office shall become vacant.

COUNTY TREASURER

STATUTORY REFERENCE:	Ohio Rev. Code Section 321.02.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Given in such sum as the Board of County Commissioners shall direct.
GIVEN WITH/SIGNED BY:	With a bonding or surety company authorized to do business in this State. The bonding/surety company must be approved by the Board of County Commissioners.
CONDITIONED UPON:	Payment of all monies which come into his hands for state, county, township and other purposes.
FILED/DEPOSITED WITH:	County Auditor.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Term of office.
WHEN GIVEN:	On or before the day of the commencement of the official term of office and before entering upon the discharge of the duties of office.
COMMENTS:	<p>When, in the opinion of a majority of the members of the Board of County Commissioners, the sureties have become insufficient, such Board may require the Treasurer to give additional sureties on his previously accepted bond. When in its opinion more money has passed or is about to pass the hands of the Treasurer than is or would be covered by his bond, the Board may demand and receive from such Treasurer an additional bond, payable and conditioned as required for the original bond, with such sureties and in such sum as it directs. If a Treasurer fails or refuses to give such additional sureties or bond for 10 days from the day on which the Board so requires, his office shall be vacant and another treasurer appointed as in other cases of vacancy.</p> <p>A Treasurer's bond must be entered in full on the record of proceedings of the Board of County Commissioners on the day when accepted or approved by it.</p> <p>If a person elected to the office of Treasurer fails to give bond, as required, on or before the day of the commencement of his official term, the office shall become vacant.</p>

DIRECTOR OF COUNTY
DEPARTMENT OF JOB AND FAMILY SERVICES

STATUTORY REFERENCE: Ohio Rev. Code Section 329.01.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: In such sum as fixed by the Board of County Commissioners.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State and approved by the Board of County Commissioners.

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: From the appropriation for administrative expenses of the County Department of Welfare.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: The director may require any assistant or employee under his jurisdiction to give bond. Requirements for all such bonds are the same as above.

DIRECTOR OF JOINT COUNTY
DEPARTMENT OF JOB AND FAMILY SERVICES

STATUTORY REFERENCE: Ohio Rev. Code Section 329.40.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: In such sum as fixed by the Board of Directors of the Joint County Department of Jobs and Family Services.

GIVEN WITH/SIGNED BY: A bonding or surety company authorized to do business in this State and approved by the Board of Directors.

CONDITIONED UPON: Faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: From the appropriation for administrative expenses of the County Department of Welfare.

APPROVED BY: Board of Directors.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: The director may require any assistant or employee under his jurisdiction to give bond. Requirements for all such bonds are the same as above.

COUNTY DOG WARDEN & HIS DEPUTIES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 955.12, 3929.14, and 3929.17.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$500, and not more than \$2,000, as set by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office.
FILED/DEPOSITED WITH:	County Auditor.
BOND PAID BY:	Board of County Commissioners from County funds. (3929.17)
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	No statutory direction.
COMMENTS:	The bond or bonds given under this statute may, in the discretion of the Board of County Commissioners, be <u>individual or blanket bonds</u> .

COUNTY PARK COMMISSIONER

STATUTORY REFERENCES: Ohio Rev. Code Sections 1545.05, 1545.13, 3929.14 and 3929.17.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: \$5,000.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this State. (3929.14)

CONDITIONED UPON: The faithful performance of the duties of office.

FILED/DEPOSITED WITH: County Auditor.

BOND PAID BY: The County. (3929.17)

APPROVED BY: County Auditor.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the performance of the duties of office.

COMMENTS: The board of park commissioners may hire employees to act as rangers and patrollers. Such employees, having the powers of police officers within and adjacent to the lands under the jurisdiction and control of the board, must give bond to the state in such sum as the board prescribes, "before exercising such powers." Ohio Rev. Code Section 1545.13.

CLERK OF COUNTY COURT

STATUTORY REFERENCES:	Ohio Rev. Code Sections 1907.20(A), 1907.20(E)(1), 1907.20(F)(1), 1907.20(F)(2), 3929.14 and 3929.17.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000, in an amount to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office.
BOND PAID BY:	Board of County Commissioners. (See Ohio Rev. Code Section 3929.17).
APPROVED BY:	We recommend the approval of the Board of County Commissioners. (See Ohio Rev. Code Section 3929.17).
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.
COMMENTS:	<p>The Clerk of Courts (i.e., the Clerk of the Court of Common Pleas) shall also serve as the Clerk of County Courts, except that the Board of County Commissioners may, with the concurrence of the County Court Judge, appoint a clerk for each such County Court Judge. Such appointed clerks serve at the pleasure of the Board of County Commissioners. Where the Clerk of Courts also serves as the Clerk of the County Court, <u>no additional bond is required</u> (i.e., the bond given pursuant to Section 2303.02 is deemed sufficient). The above requirements pertain only to <u>appointed</u> clerks.</p>

In county court districts having appointed clerks, deputy clerks may be appointed by the Board of County Commissioners. The clerk may require any deputy clerk to give bond of not less than \$3,000. See Ohio Rev. Code §1907.20(E)(1). In county court districts having appointed clerks, the Board of County Commissioners may order the establishment of one or more branch offices of the clerk and may, with the concurrence of the County Court Judge, appoint a special deputy clerk to administer each branch office. The board may require any such special deputy clerk to give bond of not less than \$3,000. See Ohio Rev. Code §1907.20(F)(1).

A Clerk of Courts acting as Clerk of County Court may establish one or more branch offices for his duties as such Clerk and may, with the concurrence of the County Court Judge, appoint a special deputy clerk to administer each branch office. The Clerk may require any such special deputy clerk to give bond of not less than \$3,000. See Ohio Rev. Code §1907.20(F)(2).

PROBATE JUDGE

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2101.03, 2101.06, 2101.11(A)(1), 2101.11(C), 3929.14 and 3929.17
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$5,000.
GIVEN WITH/SIGNED BY:	The statute states only that bond shall be given with "sufficient surety." Therefore, it would appear that Section 3929.14 would control, i.e., a bonding or surety company authorized to do business in this State.
CONDITIONED UPON:	That the Probate Judge faithfully pay over all monies received by him in his official capacity; that he enter and record the orders, judgments and processing of the court; and, that he faithfully and impartially perform all the duties of his office.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners. See Ohio Rev. Code §3929.17.
APPROVED BY:	Board of County Commissioners. (In the absence from the county of two or more of the members of the board, the bond shall be approved by the County Auditor and County Recorder.)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	<p>As the state of business in the office of the Probate Judge renders it necessary, the Board of County Commissioners may require additional bond.</p> <p>The Probate Judge, upon motion of a party or his own motion, may appoint a special master commissioner in any matter pending before such judge. The judge may require any such commissioner to execute a bond to the state in such sum as the court directs, with surety approved by the Court, and bond filed in the Court. See Ohio Rev. Code Section 2101.06.</p> <p>Probate Judges are authorized by statute to appoint deputy clerks, a bailiff and any other necessary employees. [2101.11(A)(1)] The judge may require any employee/appointee to give bond of not less than \$1,000. See Ohio Rev. Code Section 2101.11(C). The sureties shall be approved in the same manner as those of the judge. See Ohio Rev. Code Section 2101.03.</p>

CLERK OF JUVENILE COURT

(NOTE: Whenever the Courts of Common Pleas, Division of Domestic Relations, exercise the powers and jurisdiction conferred in Ohio Rev. Code Sections 2151.01, to 2151.54, or whenever the Juvenile Judge, or a majority of the juvenile judges of a multi-judge juvenile division, of a Court of Common Pleas, Juvenile Division and the Clerk of the Court of Common Pleas agree in an agreement that is signed by the Judge that the Clerk of Courts of Common Pleas shall keep the records of such costs. In all other cases, the Juvenile Judge shall be the Clerk of his own Court. The following requirements pertain only to counties where the judge acts as his own clerk.)

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2151.12, 2151.13, 3929.17, 2153.08 and 2153.10
BOND GIVEN TO:	State of Ohio, the county, or any person who may suffer loss by reason of a default in any of the conditions of the bond.
AMOUNT OF BOND:	A sum to be determined by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company licensed to do business in this State, and approved by the Board of County Commissioners.
CONDITIONED UPON:	The faithful performance of the duties of office as clerk.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners. See ORC Section 3929.17.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office as clerk.
COMMENTS:	The juvenile judge may appoint such bailiffs, probation officers, and other employees as are necessary for the Court's business. Such employees serve during the pleasure of the judge. The judge may require any employee to give bond in the sum of not less than \$1,000, conditioned for the honest and faithful performances of these duties. The sureties on such bonds shall be approved in the same manner as above. See Ohio Rev. Code Section 2151.13.

CLERK OF JUVENILE COURT (Continued)

CUYAHOGA COUNTY:

In Cuyahoga County, the administrative juvenile judge shall serve as the clerk of his own court. Each such judge shall execute and file with the County Treasurer of Cuyahoga County a bond in the sum of not less than \$5,000, to be determined by the Board of County Commissioners²⁶ of Cuyahoga County, with sufficient surety, to be approved by the Board, conditioned for the faithful performance of such duties as clerk. The bond is given for the benefit of Cuyahoga County, the State, and any person who may suffer loss by reason of a default in any of the conditions of said bond. In addition, the administrative judge may appoint and employ such deputies, clerks, stenographers and other assistants as are reasonably necessary in connection with the work of the court. He may require any such employee/appointee to give bond in the sum of not less than \$1,000, conditioned for the faithful performance of his duties. The approval of the sureties, the terms, the filing and the beneficiaries of such bonds are the same as those of the administrative judge acting as clerk. See Ohio Rev. Code Sections 2153.08 and 2153.10.

²⁶ Although Cuyahoga County no longer has a Board of County Commissioners this is how the law reads.

COUNTY JUVENILE REHABILITATION FACILITY SUPERINTENDENT

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2151.70, 3929.14 and 3929.17
BOND GIVEN TO:	Juvenile Court Judge or the Board.
AMOUNT OF BOND:	To be fixed by the Juvenile Court Judge or the Board.
GIVEN WITH/SIGNED BY:	“Sufficient surety” to the Judge or Board. (i.e. A surety or bonding company authorized to transact business in this State.) (3929.14)
CONDITIONED UPON:	The full and faithful accounting of all funds and properties coming into the superintendent's hands.
FILED/DEPOSITED WITH:	Juvenile Court Judge./ Board of Trustees
BOND PAID BY:	County. See ORC Section 3929.17.
APPROVED BY:	Juvenile Court Judge.
TERM OF BOND:	Tenure of Office.
WHEN GIVEN:	Before entering upon the duties of office.

BAILIFF OF COURT OF COMMON PLEAS

STATUTORY REFERENCES:	Ohio Rev. Code Sections 2301.16, 2301.12(C), 3929.14 and 3929.17.
BOND GIVEN TO:	County Sheriff.
AMOUNT OF BOND:	\$5,000.
GIVEN WITH/SIGNED	BY: "Good and sufficient sureties" (i.e. A bonding or surety company authorized to do business in this State.) (3929.14)
CONDITIONS UPON:	Faithful discharge of the duties of office.
FILED/DEPOSITED WITH:	County Sheriff.
BOND PAID BY:	County. See ORC Section 3929.17.
APPROVED BY:	County Sheriff. See ORC Section 3929.17 2301.16.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of duties of office.
COMMENTS:	In counties where there are 4 or more judges in the Court of Common Pleas, the judges appoint a <u>chief court constable</u> instead of a bailiff. The constable must meet the same bond requirements as a bailiff. See Ohio Rev. Code Section 2301.12(C).

CLERK OF THE COURT OF COMMON PLEAS

STATUTORY REFERENCE:	Ohio Rev. Code Section 2303.02.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$10,000 nor more than \$40,000, to be fixed by the Board of County Commissioners.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State, or by two or more freeholders having real estate in the value of double the amount of the bond (over and above all encumbrances). If a surety company is used, it must be approved by the Board of County Commissioners.
CONDITIONED UPON:	That the clerk will enter and record all the orders, decrees, judgments and proceedings of the courts of which he is clerk; that he will pay over all monies received by him in his official capacity; and, that he will faithfully and impartially discharge the duties of his office.
FILED/DEPOSITED WITH:	County Treasurer.
BOND PAID BY:	Board of County Commissioners, charged to the general fund of the County.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.

EXECUTIVE DIRECTOR OF COUNTY CHILDREN SERVICES

STATUTORY REFERENCES:	Ohio Rev. Code Section 5153.13, 5153.10, 3929.14 and 3929.17
BOND GIVEN TO:	County.
AMOUNT OF BOND:	In such sum as is fixed by Public Children Services Agency
GIVEN WITH/SIGNED BY:	"Sufficient surety" (i.e., a surety or bonding company authorized to transact business in this State). (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office and the full and faithful accounting of all funds and properties coming into the Director's hands.
FILED/DEPOSITED WITH:	No statutory direction.
BOND PAID BY:	County/Public Children's Services Agency. See ORC Section 3929.17.
APPROVED BY:	County/Public Children's Services Agency. See ORC Section 3929.17. <u>Probate Court. See ORC 5153.13.</u>
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.
COMMENTS:	Each public children services agency shall designate an executive officer. The superintendent of the children's home, the county director of human services, or other individual may serve as Executive Director. See Ohio Rev. Code Section 5153.10.

In addition to the above bond to the county, the executive director must also give bond to the probate court. This bond must be given before entering upon the duties of office, with sufficient surety, conditioned upon the full and faithful accounting of all trust funds which the director holds on behalf of wards. The amount of this bond is determined by the court and may be modified by the court, provided that the minimum amount of the bond is \$5,000.

The agency may also require any employee thereof having custody or control of funds or property to give bond to the county in an amount that the board determines. The cost of such bonds is paid by the agency. In this context, "employee" would include the superintendent of the children's home.

SUPERINTENDENT/ADMINISTRATOR OF COUNTY HOME

STATUTORY REFERENCES: Ohio Rev. Code Sections 5155.04 and 3929.17

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: As the Board of County Commissioner or Operator requires.

GIVEN WITH/SIGNED BY: A surety acceptable to the Board of County Commissioners.

CONDITIONED UPON: Faithful discharge of the duties of office.

FILED/DEPOSITED WITH: County Treasurer.

BOND PAID BY: County. See ORC 3929.17.

APPROVED BY: Board of County Commissioners.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the duties of office.

COUNTY BRIDGE COMMISSIONERS

STATUTORY REFERENCES:	Ohio Rev. Code Sections 5593.05, 3929.14 and 3929.17
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	\$5,000.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business (3929.14) in this State.
CONDITIONED UPON:	"According to Law."
FILED/DEPOSITED WITH:	"(In the same manner) as other bonds required of county or city officials."
BOND PAID BY:	County. See ORC Section 3929.17.
APPROVED BY:	Board of County Commissioners.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	No statutory direction

TREASURER OF MUNICIPAL CORPORATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 705.27, 733.69, 733.70, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	In such sums as the legislative authority of the Municipal Corporation fixed by ordinance or resolution. (705.27)
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	Mayor. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)
COMMENTS:	<p>This Section (733.69) applies to all forms of municipal government, regardless of which "plan" the Municipal Corporation is organized under. (Therefore, the above requirements apply equally to the Commission Plan, the City Manager and the Federal Plan).</p> <p>Ohio Rev. Code Section 705.27 also requires that bond be posted by all officers and employees of a Municipal Corporation who are directed to do so by the legislative authority. Bond requirements would be the same as those listed above.</p>

AUDITOR (OR CLERK) OF MUNICIPAL CORPORATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 705.27, 733.69, 733.70 and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	In such sums as the legislative authority of the Municipal Corporation Fixed by ordinance or resolution. (705.27)
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Treasurer of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	Mayor. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)
COMMENTS:	This section (733.69) applies to all forms of municipal government, regardless of which "plan" the Municipal Corporation is organized under. (Therefore, the above requirements apply equally to the Commission Plan, the City Manager Plan and the Federal Plan).

Ohio Rev. Code Section 705.27 also requires that bond be posted by all officers and employees of a Municipal Corporation who are directed to do so by the legislative authority. Bond requirements would be the same as those listed above.

CITY MANAGER

STATUTORY REFERENCES:	Ohio Rev. Code Sections 705.60, 733.69, 705.27, and 3929.14.
BOND GIVEN TO:	Municipal Corporation.
AMOUNT OF BOND:	In such sums as fixed by the council.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	The faithful performance of the duties of office
FILED/DEPOSITED WITH:	Auditor (or Clerk) of Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	The council of Municipal Corporation. (705.27)
TERM OF BOND:.	Tenure of office
WHEN GIVEN:	Before entering upon the duties of office.

SEALER OF WEIGHTS AND MEASURES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 733.65, 733.69, and 705.27.
BOND GIVEN TO:	Municipal Corporation.
AMOUNT OF BOND:	To be fixed by the legislative authority of the municipal corporation by ordinance.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this state and approved by the mayor of the municipal corporation.
CONDITIONED UPON:	The faithful performance of the duties of office.
FILED/DEPOSITED WITH:	Auditor (or clerk) of the municipal corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	Mayor of the municipal corporation.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

PUBLIC UTILITY BOARD MEMBER

STATUTORY REFERENCES:	Ohio Rev. Code Sections 735.03, 705.27, 733.69, 733.70, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	To be fixed by the legislative authority of the Municipal Corporation.
GIVEN WITH/SIGNED By:	A surety or bonding company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or clerk) of the municipal corporation. (733.69)
BOND PAID BY:	Municipal Corporation.
APPROVED BY:	Mayor of the Municipal Corporation. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)
COMMENTS:	Bond for public utilities board members is not mandatory, but left to the discretion of the legislative authority of the municipal corporation.

TRUSTEES OF MUNICIPAL SINKING FUND

STATUTORY REFERENCES:	Ohio Rev. Code Sections 739.02, 705.27, 733.69, and 733.70
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	To be fixed by the legislative authority of the Municipal Corporation. (705.27)
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this State.
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the municipal corporation. (733.69)
BOND PAID BY:	Funds under the control of the Board of Trustees of the sinking fund.
APPROVED BY:	Mayor of the Municipal Corporation. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)
COMMENTS:	Bond left to discretion of legislative authority of the Municipal Corporation

RAPID TRANSIT COMMISSIONERS

STATUTORY REFERENCES:	Ohio Rev. Code Sections 747.01, 705.27, 733.69, 733.70, and 3929.14
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	To be fixed by the legislative authority of the Municipal Corporation.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation.
APPROVED BY:	Mayor of the Municipal Corporation. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)

TRUSTEES OF MUNICIPAL HOSPITAL

STATUTORY REFERENCES:	Ohio Rev. Code Sections 749.22, 705.27, 733.69, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	\$2,500.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	The mayor and the legislative authority of the Municipal Corporation.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.

TRUSTEES OF MUNICIPAL PARK

STATUTORY REFERENCES:	Ohio Rev. Code Sections 755.23, 705.27, 733.69, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	\$2,500.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office. (705.27)
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	The Mayor and the legislative authority of the Municipal Corporation.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.

CLERK OF MUNICIPAL COURT

STATUTORY REFERENCES:	Ohio Rev. Code. Sections 1901.31(D), 1901.31(A)(1)(b), 1901.31(H), 1901.311, 733.69, 3929.14 and 705.27.
BOND GIVEN TO:	Municipal Court. (705.27)
AMOUNT OF BOND:	Not less than \$6,000 in an amount to be determined by the judges of the Court.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties as clerk.
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	The judges of the Municipal Court.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	<p><u>Special deputy clerk</u>: A municipal court may establish one or more branch offices or may appoint a special deputy clerk to administer each branch office. The municipal court may require any such special deputy clerk to give bond of not less than \$3,000, conditioned for the faithful performance of the duties of office. See Ohio Rev. Code Section 1901.311. Deputy Clerk: <u>Deputy Clerks</u> may be appointed by the clerk, who may require any such deputy to give bond or not less than \$3,000, conditioned for the faithful performance of his duties. See Ohio Rev. Code. Section 1901.31(H)</p> <p>In certain counties (e.g., Hamilton County) the clerk of courts of the county is required, by statute, to also serve as clerk of the municipal court. See Ohio Rev. Code Section 1901.31(A)(1)(b).</p>

BAILIFF OF MUNICIPAL COURT

STATUTORY REFERENCES:	Ohio Rev. Code Sections 1901.32(A)(1), 1901.32(A)(2), 705.27, 733.69, 733.70, and 3929.14.
BOND GIVEN TO:	Municipal Court. (705.27)
AMOUNT OF BOND:	Not less than \$3,000, in an amount to be fixed by the legislative authority.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	Faithful performance of the duties of office.
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	Mayor of the Municipal Court. (733.70)
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	The Court has the power to appoint any number of deputy bailiffs. Each deputy bailiff must give a bond in an amount of not less than \$1,000. See Ohio Rev. Code Section 1901.32(A)(2).

CITY BRIDGE COMMISSIONERS

STATUTORY REFERENCES:	Ohio Rev. Code Sections 5593.05, 705.27, 733.69, and 3929.14.
BOND GIVEN TO:	Municipal Corporation. (705.27)
AMOUNT OF BOND:	\$5,000.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	“According to law”.
FILED/DEPOSITED WITH:	Auditor (or Clerk) of the Municipal Corporation. (733.69)
BOND PAID BY:	Municipal Corporation. (705.27)
APPROVED BY:	The Board or legislative authority of the municipal corporation.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office. (733.69)

TOWNSHIP TRUSTEES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 505.02, 3929.17, 507.04(A), and 505.03.
BOND GIVEN TO:	State of Ohio, for the use of the township.
AMOUNT OF BOND:	\$1,000.
GIVEN WITH/SIGNED BY:	At least 2 sureties, who shall be residents of the same township with the trustee or a corporate surety authorized to do business in this State.
CONDITIONED UPON:	Faithful performance of the duties of office.
FILED/DEPOSITED WITH:	Township fiscal officer. See Ohio Rev. Code Section 507.04(A), which requires the fiscal officer to record the acceptance of all bonds.
BOND PAID BY:	Township. See ORC Section 3929.17.
APPROVED BY:	A judge of the county court or judge of a municipal court having jurisdiction in the township.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	Whenever he claims it necessary, and on application of a least 12 freeholders of the township, the judge of the county court or municipal judge having jurisdiction in the township who approves the bond may require additional security or the execution of a new bond. If a trustee fails, for 10 days, to give additional security or execution of a new bond after service of such notice in writing, the office shall be declared vacant. See Ohio Rev. Code §505.03.

TOWNSHIP FISCAL OFFICER

- STATUTORY REFERENCES: Ohio Rev. Code Sections 507.03, 3929.17, 507.02, 507.021(C).
- BOND GIVEN TO: Board of Township Trustees.
- AMOUNT OF BOND: In such sums as the Board of Township Trustees shall determine, but not less than the sum provided in 507.03, as amended.
- GIVEN WITH/SIGNED BY: A surety or sureties approved by the Board of Township Trustee.
- CONDITIONED UPON: Faithful performance of the duties of office.
- FILED/DEPOSITED WITH: County Treasurer.
- BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.
- APPROVED BY: Board of Township Trustees.
- TERM OF BOND: Tenure of office.
- WHEN GIVEN: Op. Atty. Gen. No. 2005-004 provides that a fiscal officer who entered upon duties of office prior to November 5, 2005 and gave bond in accordance with Ohio Rev. Code Section 507.03 then in effect, has provided the bond required to qualify for office and is not required to provide a bond that meets the minimum requirements established by Ohio Rev. Code Section 507.03 ~~HB-148~~.

An individual who seeks to enter into the office of fiscal officer on or after November 5, 2005, either to begin a new term or to fill a vacancy of an existing term, is required to give bond at not less than the minimums established in amended Ohio Rev. Code Section 507.03 (~~HB-148~~).

**MINIMUM BOND REQUIREMENTS
PER ORC 507.03**

For fiscal officers entering office on or after November 5, 2005, as amended:

Budget Range	Minimum Amount
\$50,000 or less	\$10,000
\$50,000 - \$100,000	\$35,000
\$100,000 - \$250,000	\$60,000
\$250,000 - \$500,000	\$85,000
\$500,000 - \$750,000	\$110,000
\$750,000 - \$1,500,000	\$135,000
\$1,500,000 - \$3,500,000	\$160,000
\$3,500,000 - \$6 million	\$195,000
\$6 million - \$10 million	\$220,000
\$10 million or more	\$250,000

TOWNSHIP FISCAL OFFICER (Continued)

COMMENTS:

When a Township fiscal officer is unable to carry out the duties of his office because of illness, or military service, or because he is otherwise incapacitated or disqualified, the Board of Township Trustees will appoint a deputy fiscal officer to discharge the duties of the office. Before entering upon the discharge of those duties, the deputy fiscal officer must give bond, meeting all the above requirements. See Ohio Rev. Code Section 507.02.

Before serving, an assistant to the township fiscal officer shall give bond for the faithful discharge of duties of the office as may be delegated by the fiscal officer. The bond shall be payable to the board of township trustees and shall be for the same sum as required under section 507.03 of the Revised Code for the township fiscal officer, with sureties approved by the board, and conditioned for the faithful performance of duties delegated by the fiscal officer. The bond shall be recorded by the township fiscal officer, filed with the county treasurer, and carefully preserved. See Ohio Rev. Code Section 507.021(C).

TOWNSHIP CONSTABLE

STATUTORY REFERENCES:	Ohio Rev. Code Sections 509.02, 3929.17, and 3.06.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$500 nor more than \$2,000, to be fixed by the Board of Township Trustees.
GIVEN WITH/SIGNED BY:	Sureties that are residents of the township approved by the board of township trustees.
CONDITIONED UPON:	The faithful and diligent discharge of the duties of office.
FILED/DEPOSITED WITH:	Township fiscal officer.
BOND PAID BY:	Township. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Township Trustees.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the discharge of the duties of office.
COMMENTS:	A special constable appointed under Ohio Rev. Code Section 1907.201, is not required to give a bond. See 1958 Op. Atty Gen. No. 3061. This bond requirement may be fulfilled with a blanket bond obtained in compliance with Ohio Rev. Code Section 3.06.

TOWNSHIP PARK DISTRICT EMPLOYEES

STATUTORY REFERENCES: Ohio Rev. Code Sections 511.232, 507.04, 3929.14 and 3929.17.

BOND GIVEN TO: State of Ohio.

AMOUNT OF BOND: A sum to be fixed by the Board of Park Commissioners of the Township.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to do business in this state. (3929.14)

CONDITIONED UPON: The proper performance of duties.

FILED/DEPOSITED WITH: Township fiscal officer. (507.04)

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17

APPROVED BY: Board of Park Commissioners of the Township.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before exercising the powers granted by the Board.

COMMENTS: The above bond requirements do not necessarily apply to all park district employees. Ohio Rev. Code Section 511.232 states, in pertinent part: "Employees designated by the board...may enforce the laws of the state and the regulations of the board within and adjacent to the lands under the jurisdiction and control of the board. Before exercising such powers, the employees so designated shall...give a bond..." Thus, only those employees who are designated by the board as law enforcement employees are required to give bond under the above statute.

TOWNSHIP ZONING INSPECTOR

STATUTORY REFERENCES:	Ohio Rev. Code Sections 519.161 and 3929.17.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	Not less than \$1,000 nor more than \$5,000 in an amount to be fixed by the Board of Township Trustees.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this state, or two or more freeholders having real estate in the value of double the amount of the bond, over and above all encumbrances. If a surety/bonding company is used, it must be approved by the Board of Township Trustees.
CONDITIONED UPON:	The faithful performance of the official duties.
FILED/DEPOSITED WITH:	Township fiscal officer.
BOND PAID BY:	Township. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Township Trustees.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

TOWNSHIP HIGHWAY SUPERINTENDENT

STATUTORY REFERENCES: Ohio Rev. Code Sections 5571.04, 3929.14, 3929.17, and 5571.02(C).

BOND GIVEN TO: State of Ohio, for the use of the Township.

AMOUNT OF BOND: \$2,000.

GIVEN WITH/SIGNED BY: A surety or bonding company authorized to transact business in this state. (3929.14)

CONDITIONED UPON: The faithful performance of the duties of office.

FILED/DEPOSITED WITH: Township fiscal officer.

BOND PAID BY: Township. See Ohio Rev. Code Section 3929.17.

APPROVED BY: Board of Township Trustees.

TERM OF BOND: Tenure of office.

WHEN GIVEN: Before entering upon the discharge of the duties of office.

COMMENTS: The appointment of a person to the office of township highway superintendent is not mandatory, but within the discretion of the board of trustees. Therefore, bond is required only where the board determines to proceed with such appointment pursuant to Ohio Rev. Code Section 5571.02(C).

TREASURER OF BOARD OF EDUCATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3313.25 and 3929.17.
BOND GIVEN TO:	State of Ohio.
AMOUNT OF BOND:	The Treasurer of a Board of Education must furnish a bond in an amount to be approved by the Board, but the amount of the bond must bear a reasonable relationship to the duties of the Treasurer and to the amount of money and property coming into his control during his term of office. 1957 Op. Atty Gen. 706.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this state and approved by the Board of Education.
CONDITIONED UPON:	The faithful performance of all the official duties of office.
FILED/DEPOSITED WITH:	President of Board of Education. (A copy of this bond, certified by the President, must be filed with the County Auditor).
BOND PAID BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Education. See Ohio Rev. Code Section 3313.25.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

BUSINESS MANAGER OF BOARD OF EDUCATION

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3319.05, 3929.14 and 3929.17.
BOND GIVEN TO:	Board of Education.
AMOUNT OF BOND:	It is mandatory that the Business Manager of a city school district furnish bond in an amount to be approved by the Board of Education but the amount of the bond must bear a reasonable relationship to his duties and to the amount of property coming into this hands during his term of office. 1957 Op. Atty Gen. 706.
GIVEN WITH/SIGNED BY:	A bonding or surety company authorized to transact business in this State. (3929.14)
CONDITIONED UPON:	The faithful discharge of the duties of office.
FILED/DEPOSITED WITH:	Board of Education.
BOND PAID BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Education.
TERM OF BOND:	Tenure of employment.
WHEN GIVEN:	No statutory guidance.

PUBLIC SCHOOL BUS DRIVER

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3327.10(C), 3929.14 and 3929.17.
BOND GIVEN TO:	Board of Education.
AMOUNT OF BOND:	"Satisfactory and sufficient bond" to be fixed by the Board of Education.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State. (3929.14)
CONDITIONED UPON:	No statutory condition indicated.
FILED/DEPOSITED WITH:	Board of Education.
BOND PAID BY:	Board of Education. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Education.
TERM OF BOND:	Tenure of employment.
WHEN GIVEN:	No statutory guidance direction on this question.
COMMENTS:	<p>School bus drivers who are employees of a school district and who drive buses or motor vans owned by the school district are not required to give bond. However, where drivers or buses are furnished by contract, bond must be given.</p> <p>Blanket bonds may be procured for the coverage of school bus drivers. A bus driver does not have to execute an "individual" bond. See 1957 Op. Atty Gen. 1053.</p> <p>The statutory bond requirement is mandatory--- a board of education may not waive it. See 1957 Op. Atty Gen. 706.</p>

CLERK OF BOARD OF LIBRARY TRUSTEES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3375.32 and 3929.17.
BOND GIVEN TO:	Board of Library Trustees.
AMOUNT OF BOND:	To be fixed by the Board of Library Trustees.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this state and approved by the Board of Library Trustees.
CONDITIONED UPON:	The faithful performance of the official duties required of him.
FILED/DEPOSITED WITH:	No statutory direction.
BOND PAID BY:	Board of Library Trustees. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Library Trustees. See Ohio Rev. Code Section 3375.32.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

DEPUTY CLERK OF BOARD OF LIBRARY TRUSTEES

STATUTORY REFERENCES:	Ohio Rev. Code Sections 3375.36 and 3929.17.
BOND GIVEN TO:	Board of Library Trustees.
AMOUNT OF BOND:	To be fixed by the Board of Library Trustees.
GIVEN WITH/SIGNED BY:	A surety or bonding company authorized to do business in this State and approved by the Board of Library Trustees.
CONDITIONED UPON:	The faithful performance of the official duties required of him.
FILED/DEPOSITED WITH:	No statutory direction.
BOND PAID BY:	Board of Library Trustees. See Ohio Rev. Code Section 3929.17.
APPROVED BY:	Board of Library Trustees. See Ohio Rev. Code Section 3375.36.
TERM OF BOND:	Tenure of office.
WHEN GIVEN:	Before entering upon the duties of office.

Exhibit 3 – Compliance ACE Form**Assessment of the Compliance Controls' Environment**

Note: This exhibit includes control environment points of focus specific to the OCS.

Instructions for Using the OCS Compliance ACE Form

- Illustrative points of focus are given for OCS Chapter 1. The auditor should not answer 'Yes' or 'No' to the points of focus. Rather, the auditor should comment on each area, using the points of focus as further guidance where appropriate, basing comments on information available from prior years' audits, inquiries of individuals inside and outside the organization, knowledge of factors outside the government that affect its activities, observation of circumstances that are known or are understood to exist within the government, and, in some circumstances, inspection of documents.
- The areas for assessment and illustrative points of focus in the ACE are not equally relevant to all engagements, and the significance of any particular area or point of focus varies with the government. Thus, the auditor should judge the applicability and importance of each in the context of the engagement.
- In assessing the control environment, the auditor should recognize that neither the areas for assessment nor the illustrative points of focus are necessarily all-inclusive. The auditor may encounter matters affecting the control environment other than those addressed by the ACE. The auditor should document those matters and assess their effect on the control environment.
- In assessing the control environment, the auditor should look beyond the form of control measures and management actions and should concentrate on their substance. An environment may appear to be favorable but in reality may not be. For instance, a system may provide adequate reports for the governing board or senior management, but if the information is not analyzed and acted on, the system does not contribute to the control environment. Similarly, a government may establish appropriate policies; however, to be effective, they should be enforced by management. For example, although a government may have a formal code of conduct, management may have a record of condoning actions that violate it. By not reprimanding such actions, management sends a clear message undermining the code of conduct.

Audit Implications

- After assessing each area, the auditor should consider the audit implications of any circumstances coming to his or her attention that may affect the audit strategy and audit program, or that may represent a matter for which we can offer a recommendation for improvement.

Application to Small and Mid-sized Entities

- Small and mid-sized entities may implement the control environment areas differently than larger entities. For example, smaller entities might not have a written code of conduct but instead, develop a culture that emphasizes the importance of integrity and ethical behavior through oral communication and by management example. However, these conditions may not affect the auditor's assessment of control risk.

Budgetary (OCS Chapter 1 Part A)	
Area for Assessment	Comments
<p>The following factors may influence the auditor's assessment of risk of significant misstatements of budgetary presentations:</p> <p>ORC 5705 codifies an annual budget process designed to prevent fund cash deficits. It prescribes levels of budgetary control, and a basis for recognizing budgetary receipts and budgetary expenditure, which can affect the fair presentation of budgetary statements and disclosures.</p> <p><i>Consider for example, the following points of focus:</i></p> <ul style="list-style-type: none"> - <i>Existence of a budgetary monitoring system and compliance function (This is part of monitoring more than the control environment, but we have listed it here because of its importance and interaction with the control environment.)</i> - <i>The effectiveness of the budget process (i.e. segregation of duties for budget preparation, adoption, execution and reporting).</i> <ul style="list-style-type: none"> • <i>The level of detail (e.g. legal level of control) and suitably knowledgeable and experienced personnel (such as operating line management).</i> - <i>The effectiveness of monitoring performance with respect to:</i> <ul style="list-style-type: none"> • <i>A commitment by those charged with governance and management to comply with budgetary laws.</i> • <i>indication and timeliness of corrective actions,</i> - <i>An accounting system that integrates budgetary accounts to provide continuous information regarding available appropriations and estimated resources not yet received.</i> <p>Note: The AICPA's State & Local Government Audit Guide, 11.24 & 26 cautions the auditor to consider whether the government uses its budget to control spending or instead, uses spending to establish (i.e. amend) the budget. Many governments do the latter, in which case analytical procedures relating to the budget may not be valid support for financial position and activity statement assertions.</p>	
<p>Audit implications and/or management comments:</p>	

Debt (OCS Chapter 1 Part C)	
Area for Assessment	Comments
<p>Points of Focus (Debt)</p> <ul style="list-style-type: none"> - Existence of a debt monitoring system and compliance function (This is part of monitoring more than the control environment, but we have listed it here because of its importance and interaction with the control environment.) - Governing authority's and management's involvement in the internal control structure to assure compliance with debt laws, contracts and regulation such as covenant requirements and 17 C.F.R. § 240.15c2-12 - Willingness to use bond counsel or other specialists (e.g. arbitrage specialists) when issuing debt. - Accounting system suitably designed to comply with any requirements to separately account for debt proceeds or debt service payments. 	
<p>Audit implications and/or management comments:</p>	

Accounting and Reporting (OCS Chapter 1 Part D)	
Area for Assessment	Comments
<p>Points of Focus</p> <ul style="list-style-type: none"> - Existence of a monitoring system and compliance function (This is part of monitoring more than the control environment, but we have listed it here because of its importance and interaction with the control environment.) - Accounting system suitably designed to accommodate the reporting requirements in Chapter 2 applicable to the auditee. 	
<p>Audit implications and/or management comments:</p>	

Other Potentially Direct and Material Laws and Regulations (OCS Chapter 1 Part F)	
Area for Assessment	Comments
<p>Points of Focus</p> <ul style="list-style-type: none"> - <i>Existence of an appropriate monitoring system and compliance function. (This is part of monitoring more than the control environment, but we have listed it here because of its importance and interaction with the control environment.)</i> - <i>Accounting system suitably designed to provide information when needed, such as information related to insurance claims, landfill costs, especially closure or postclosure costs.</i> - <i>Suitable systems and procedures for collecting other financially significant information reliably, such as landfill usage, student attendance statistics.</i> - <i>A commitment by school management and those charged with their governance to obtain accurate ADM student counts.</i> 	
<p>Audit implications and/or management comments:</p>	

Exhibit 4 – Elected Officials’ Compensation

This Exhibit includes, respectively, a reproduction of Auditor of State Bulletin 2001-001, a table from Auditor of State Bulletin 1996-014, updated compensation tables for county officials, and updated compensation tables for township officials.

Contents

Excerpt from Auditor of State Bulletin 2001-001

~~Updated~~ County Official Tables for 2007 and 2008**

(Source: County Advisory Bulletin 2007-05 <http://www.ccao.org/userfiles/CAB%20200705.pdf>)

~~Updated~~ Township Official Tables for 2008 through 2012***

(Source: December 2011 OTA Newsletter, *Grassroots Clippings*)

The Ohio Constitution provides a general prohibition on in-term compensation changes for public officers, both increases and decreases, O. Const. Art II, §20.

However, pursuant to the doctrine of waiver, officers may elect to voluntarily waive a portion of their salary. OAG 2003-027. “A public officer that has voluntarily waived all or a portion of his statutorily-prescribed compensation [however] may not thereafter request and receive payment of the compensation he waived.” Id. at Note 8.

The elected officials would be able to reduce their salaries voluntarily (this would include voluntary furlough days). They would then be precluded during that term from receiving the portion that they waived. For instance, a council member could voluntarily waive her salary today. In December, she determines that she would like to rescind the waiver. She can take that action, and be entitled to her full salary going forward. She does not, however, have any rights to the amount that she waived.

****Current Ohio law (Revised Code Section 325.18) permits a cost of living increase for county officials through Dec. 31, 2008. The General Assembly did not include cost of living increases for 2009, 2010, and beyond in the Ohio Revised Code for county officials. This means that county officials will remain at the 2008 salary levels until legislation is passed to extend the cost of living increase. When preparing budget documents for 2008 and subsequent years, counties should use the 2008 compensation figures. <http://www.ccao.org/userfiles/CAB%20200705.pdf>**

*****Current Ohio law (Revised Code Sections 505.24 and 507.09) permits a cost of living increase for township officials through Dec. 31, 2008. This means that township officials will remain at the 2008 salary until legislation is passed to extend the cost of living increase. When preparing budget documents for 2008 and subsequent years, townships should use the 2008 compensation figures.**

Note: For more information regarding township trustee and fiscal officer compensation, see pages A-12 through A20 and A-30 through A-32 from the Ohio Township Handbook located at the following website: www.ohioauditor.gov (Resources/Publications & Manuals/Manuals/Ohio Township Handbook)

AUDITOR OF STATE BULLETIN 2001-001February 9, 2001

TO: ALL COUNTY AUDITORS
ALL COUNTY CLERKS OF COURTS
ALL COUNTY COMMISSIONERS
ALL COUNTY CORONERS
ALL COUNTY ENGINEERS
ALL COUNTY PROSECUTING ATTORNEYS
ALL COUNTY RECORDERS
ALL COUNTY SHERIFFS
ALL COUNTY TREASURERS
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: COMPENSATION INCREASE LEGISLATION PERTAINING TO
NONJUDICIAL COUNTY ELECTED OFFICIALS
(SUBSTITUTE HOUSE BILL NUMBER 712)

Attached is a copy of the County Commissioners' Association of Ohio's Advisory Bulletin 00-7 outlining the various compensation increases for county elected officials set forth in House Bill 712, which was passed by the General Assembly as an emergency measure and took effect on December 8, 2000. The information contained in the CCAO's advisory bulletin has been reviewed by the State Auditor's Office and we concur with its content.

Below are two points relating to the timing and effect of this pay increase legislation that are discussed in CCAO's bulletin which we believe deserve special emphasis.

Timing of Compensation Increases

Article II, section 20 of the Ohio Constitution generally prohibits elected officials from receiving increases in their compensation in the midst of their terms of office. Because HB 712 took effect on December 8, 2000, the compensation increases and the new eight (8) class population-based compensation schedule in the bill are applicable only to those county officials whose current terms of office began after December 8, 2000. Therefore, the two county commissioners, as well as the prosecuting attorney, sheriff, coroner, engineer, recorder and clerk of the court of common pleas in each county who were elected, or re-elected, in November 2000 and were sworn into office in January 2001 may receive the compensation increases provided for in the bill and are subject to the new eight (8) class population-based compensation schedule.

Because the new terms of office of elected, or re-elected, county treasurers this year do not begin until September 3, 2001, current county treasurers, even if re-elected in November 2000, are not

Double click on the above "page object" to open the entire bulletin.



COUNTY ADVISORY BULLETIN

CAB

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Bulletin 2007-05

November 2007

2008 PAY TABLES FOR COUNTY OFFICIALS

INTRODUCTION

On December 8, 2000, Governor Taft signed House Bill 712 as an emergency measure, and it thus became effective immediately. This legislation provided salary increases to county elected officials along with statewide officeholders, lawmakers, judges, boards of elections officials, and township officials. Following the enactment of this legislation, the County Commissioners Association of Ohio (CCAO) published County Advisory Bulletin (CAB) 00-7, explaining the provisions of House Bill 712. The purpose of this CAB is to specifically provide the salary tables for 2008.

Since House Bill 712 provided that certain officials would receive cost of living increases in subsequent years based on the Consumer Price Index (CPI) through September of the preceding calendar year, salary tables must be produced annually in the fall, just a couple months prior to the officials receiving the increases. In October 2007, the United States Bureau of Labor Statistics published the CPI at 2.8 percent. This number is used to calculate the cost of living increases provided to most officials in 2008.

This CAB will explain the cost of living increase provision contained in House Bill 712; highlight the various county elected officials' salary provisions; and provide salary tables for calendar year 2008.

GENERAL CONCEPTS OF HOUSE BILL 712 & COMPENSATION IN 2008

Reduction of Salary Classes. In 2001, most county elected officials' pay classes were reduced from 14 to 8 classes, thereby providing a one-time adjustment in salary, which included a cost of living increase. Classes are based on the county's decennial census population. County auditors and commissioners elected in the gubernatorial election year (1999) did not receive this adjustment until the beginning of their next term, since they were in-term when the Legislature enacted this provision.

Cost of Living Increases. House Bill 712 provided cost of living increases for most county elected officials beginning in 2002 through 2008. In-term auditors and commissioners (who took office prior to December 8, 2000) were closed out of receiving raises until they began their next term of office in 2004, since they were in-term when the Legislature enacted this provision.

Double click on the above "page object" to open the entire bulletin and view the pay tables.

2012 Compensation Charts

Per ORC Sections 505.24 and 507.09, township trustee and fiscal officer salaries are based on the annual budget of the township. The scheme for cost of living increases was altered in 2000 when the General Assembly passed legislation continuing the cost of living increase through 2008. Cost of living increases are determined by the lesser of two numbers: three percent or the Consumer's Price Index for Urban Wage Earners and Clerical Workers (CPI-W) rating for the previous year.

If you have any questions about the compensation charts, please contact Kaitlin Hall, director of public relations, at 614-863-0045, or hall@ohiotownships.org.

FISCAL OFFICER COMPENSATION ANNUAL SALARY

Township Budget	Pay for 2006 (3% increase)	Pay for 2007 (1.7% increase)	Pay for 2008-2012 (2.8% increase)
\$50,000 or less	\$4,306	\$4,379	\$4,502
\$50,001 - 100,000	\$6,766	\$6,881	\$7,074
\$100,001 - 250,000	\$9,472	\$9,633	\$9,903
\$250,001 - 500,000	\$12,179	\$12,386	\$12,733
\$500,001 - 750,000	\$13,532	\$13,762	\$14,147
\$750,001 - 1,500,000	\$16,238	\$16,515	\$16,977
\$1,500,001 - 3,500,000	\$18,945	\$19,267	\$19,806
\$3,500,001 - 6,000,000	\$20,298	\$20,643	\$21,221
\$6,000,001 - 10,000,000	\$23,296	\$23,692	\$24,355
Greater than \$10,000,000	\$26,951	\$27,409	\$28,176

TRUSTEE COMPENSATION AMOUNT PER DAY, NOT TO EXCEED 200 DAYS PER YEAR IF PAID SALARY, 200 TIMES DAILY RATE, PAID MONTHLY

Township Budget	Pay for 2006 (3% increase)	Pay for 2007 (1.7% increase)	Pay for 2008-2012 (2.8% increase)
\$50,000 or less	\$24.60	\$25.02	\$25.72
\$50,001 - 100,000	\$29.52	\$30.03	\$30.87
\$100,001 - 250,000	\$35.06	\$35.66	\$36.66
\$250,001 - 500,000	\$40.60	\$41.29	\$42.45
\$500,001 - 750,000	\$43.06	\$43.79	\$45.02
\$750,001 - 1,500,000	\$49.21	\$50.04	\$51.44
\$1,500,001 - 3,500,000	\$54.13	\$55.05	\$56.59
\$3,500,001 - 6,000,000	\$59.05	\$60.05	\$61.73
\$6,000,001 - 10,000,000	\$76.51	\$77.81	\$79.99
Greater than \$10,000,000	\$98.37	\$100.04	\$102.84

Exhibit 5 – Legal Matrices

This exhibit contains three matrices. Each matrix matches the applicability of OCS steps to various entity types. The information in the matrices does not necessarily encompass every item requiring testing for these entities. Additionally, when footnotes in the matrices reference specific sections of the Ohio Rev. Code, you should read those sections when planning and/or conducting the audit.

Matrix 1 lists the following entities:

- Joint mental health districts
- Joint juvenile detention facilities
- Regional planning commissions
- Solid waste districts
- Joint Township cemeteries
- Union cemeteries
- Union cemetery districts
- Airport authorities
- Family and children first councils
- Soil and water districts
- Educational service centers
- Regional Student Education District
- Conservancy districts

Matrix 2 lists the following entities:

- Libraries
- Regional water & sewer districts
- General health districts
- Joint recreation districts
- Park districts
- Community and technical colleges
- State colleges and universities
- Joint ambulance districts
- Port Authorities
- Community Improvement and Development Corporations
- Joint Fire Districts
- Joint Police Districts
- Councils of Government
- Agricultural Societies²⁷

Matrix 3 includes a discussion of Home Rule Powers and lists the following entities:

- County
- Township
- City
- Village
- Public school districts and STEM schools
- Community schools

NOTE: Generally, the same laws applicable to city, local, exempted village, and joint vocational school districts are also applicable to STEM schools [ORC §3326.11].

²⁷ Auditors use Chapter 1 Appendix A in conjunction with this Exhibit when determining the applicability of certain compliance requirements to Agricultural Societies.

Matrix 1

Chapter 1: Direct Laws

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township Cemetery or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
	General Budgetary Requirements				28	29	28, 29		30	28		28	28
1-1	5705.38 Annual appropriation measure	✓	✓		✓		✓			✓		✓	✓
1-2	5705.41 (D); and 5705.42 Restrictions on appropriating/expending money, including "Blanket" fiscal officer certificates	✓	✓		✓		✓			✓		✓	✓

²⁸ If these entities levy taxes, the checkmarks noted above apply. However, often they do not levy taxes. When they do not levy taxes, Ohio Rev. Code §5705.28 (B)(2) requires a comparable, but somewhat streamlined budget process. Ohio Rev. Code §5705.28(B)(2) requires entities to follow §5705.36, .38, .40, .41, .43, .44, and .45. However, documents prepared in accordance with these sections need not be filed with the county auditor or county budget commission. Finally, while Ohio Rev. Code §5705.39 does not apply, §5705.28(B)(2)(c) prohibits appropriations from exceeding estimated revenue (i.e. receipts + beginning unencumbered cash). For conservancy districts, auditors should additionally review the requirements of Ohio Rev. Code §6101.44 and tailor their compliance testing procedures accordingly, if necessary. For conservancy districts that levy taxes, we should cite to the budgetary requirements contained in Ohio Rev. Code § 6101.44 where they are similar to requirements contained in Ohio Rev. Code Chapter 5705. The more specific requirements contained in Ohio Rev. Code Chapter 6101 trump those contained in Chapter 5705. Auditors should apply the provisions of Ohio Rev. Code Chapter 5705 when Chapter 6101 does not address budgetary restrictions applicable to conservancy districts.

²⁹ Joint Township Cemeteries and Union Cemeteries are not subject to Ohio Rev. Code Chapter 5705 because they are not taxing authorities as defined in Ohio Rev. Code §5705.01. Unlike Joint Township Cemeteries and Union Cemeteries, Union Cemetery Districts are subject to Ohio Rev. Code Chapter 5705. In a Union Cemetery District, the legislative authority of each municipal corporation and the board of township trustees of each township, jointly, is the taxing authority. However, this distinction does not affect the application of Ohio Rev. Code §5705.01 on a union cemetery district, which is specifically noted as a "subdivision."

³⁰ Ohio Rev. Code Chapter 5705 does not apply. However, §121.37(B)(5)(a) requires the council to file an annual budget with its administrative agent.

Matrix 1

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
1-3	5705.40 Amending or supplementing appropriations; contingencies	✓	✓		✓		✓			✓		✓	✓
1-4	5705.09 Establish funds and 5705.12 Permission to establish funds	✓	✓		✓ ³¹		✓			✓ ³²		✓	
1-5	5705.10, 5731.48 Distribution of levy revenue	✓	✓		✓		✓			✓		✓	✓
1-6	5705.14-.16 Transfer funds	✓	✓		✓		✓			✓		✓	✓
1-7	Various 5705 Sections & AOS Bulletin 97-003 – Advances ³³	✓	✓		✓		✓			✓		✓	✓
1-8	5705.13 Reserve Accounts & Funds	✓	✓		✓		✓			✓		✓	✓
4-9	435.21 Crediting invest. earnings	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓
4-9	5705.10 Disposition of tax revenues and proceeds	✓	✓				✓						
4-10	(Airports follow county investing requirements per RC 308.12.)							✓					

³¹ RC 5705.09 only applies to township waste disposal districts.

³² RC 5705.09 does not apply to Soil and Water Districts.

³³ Bulletin 97-03 applies to entities subject to RC 5705. This Bulletin describes the AOS' position regarding using transfers to advance / loan money from one fund to another. Auditors should also refer to Appendix A-1, *Transfers and Advances*, for additional guidance related to transfers and advances.

Matrix 1

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
	Debt³⁴												
1-14	133.22 Leg. auth. anticip. securities				✓							✓	✓
1-14	133.24 Tax anticipation notes				✓							✓	✓
1-14	5705.03 Auth. to levy taxes	✓			✓ ³⁵		✓					✓	✓
1-14	5705.05 Gen. levy for current exp.	✓					✓					✓	
1-14	5705.09 Est. of funds	✓			³⁶		✓					✓	
1-14	5705.10 Disp. and use of tax rev.	✓					✓					✓	
1-14	321.34 Advance payments to local authorities ³⁷											✓	
1-15	133.10, 133.22, and 133.24 Anticipation securities		✓		✓								✓
1-17	133.29 Governments investing in their own securities		✓		✓								

³⁴ If the entity has a specific Ohio Rev. Code Section that refers to its ability to issue bonds, notes or anticipatory securities, that section takes precedence if there was a conflict between it and the general debt provisions in Chapter 133.

³⁵ For solid waste districts and conservancy districts, the only parts of Ohio Rev. Code §5705.03 that apply are those sentences referring to a “taxing unit.”

³⁶ This only applies to township waste disposal districts.

³⁷ If any entity receives money from that county and the county is holding this money on behalf of the entity, the entity may ask for an advance.

Matrix 1

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
1-18	ORC 117.38 and 1724.05; OAC 117-2-03 (B): Annual Financial Reporting ³⁸	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-20	ORC 9.833 and 305.172: Health Care Self Insurance ³⁹	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-21	2744.081 Liability self-insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-22	117.13(C)(3) Allocating Audit Costs	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-24	Federal, state and local taxes	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-25	Employees' retirement system	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-30	ORC 343.01, 3734.52, 3734.55, 3734.56, 3734.57(B), 3734.573 and 3734.57(G) – Expenditures by solid waste management district)				✓								

³⁸ ESCs are the only entities on this matrix required to follow GAAP. However for all entities listed on this matrix, auditors and financial statement preparers should read the guidance in AOS Bulletin 2008-01.

³⁹ See bulletin 2001-05 appendix 2 for a detailed table regarding the specific requirements for each type of self-insured subdivision. Only test the OCS steps to the extent they apply and are mandatory for the subdivision under audit.

Matrix 1

Chapter 2: Indirect Laws & Statutorily Mandated Tests

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
2-1	5705.39 Amended certificates and Limitation of appropriations	✓	✓		✓		✓			✓		✓	✓
2-2	5705.41(A), (B); and 5705.42 Restrictions on appropriating/expending money	✓	✓		✓		✓			✓		✓	✓
2-4	OAC 117-2-02 Required accounting records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2-6 through 2-8	135.14 and 135.144 Eligible investments of interim monies	✓	✓	✓	✓	✓	✓		✓	✓	✓		✓
2-9	135.18 & 135.181; 12 CFR 330 Collateral for public deposits	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓

Matrix 1

Chapter 2: Indirect Laws & Statutorily Mandated Tests (Continued)

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
2-10 Through 2-11	(Airports follow county investing requirements per RC 308.12.)							✓					
2-21	Various-Investment Education	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2-22	1979 Op. Atty Gen. No. 79-111 Prohibitions from holding office and 117.103(B)(1) Fraud Hotline	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2-22	Various fraud, abuse & illegal acts ⁴⁰	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2-23	149.43 Availability of public records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

⁴⁰ Some provisions of these OCS Sections have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

Matrix 1

Chapter 3: Stewardship

Step No.	Requirement	Joint Mental Health District	Jt. Juv. Detention Facility	Regional Planning Comm'n	Solid Waste District	Joint Township or Union Cemetery	Union Cemetery District	Airport Authority	FCFC	Soil and Water District	ESC	Regional Student Education District	Conser-vancy District
3-1	9.38 Deposits of public money	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3-2	121.22 Meeting of public bodies	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3-3	149.43 Availability of public records	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
3-5	Various investment education	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
3-4	Various Prohibited Activities ⁴¹	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3-5	2151.70 Jt. Juv. Detention Facility		✓										
3-5	759.36 Union Cemetery District ⁴²						✓						
3-5	308.12 Airport Authority ⁴³							✓					
3-5	1515.07 Soil & Water District									✓			
3-5	6101.12 Conservancy District ⁴⁴												✓

⁴¹ Some provisions of these OCS Sections have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

⁴² The clerk-treasurer shall be bonded in an amount equal to or greater than the cemetery fund, but not less than \$1,000.

⁴³ The secretary-treasurer shall be bonded in an amount required by the board.

⁴⁴ For Conservancy Districts, the board may require any officer or employee to give bond and the board may determine the amount.

Matrix 2

Chapter 1: Direct Laws

Step No.	Requirement	Library ⁴⁵	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
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⁴⁵ An association library organized and operating prior to January 1, 1968 may participate in the proceeds of a county library and local government support fund ONLY where there are rules in place guaranteeing the benefit of the library to all inhabitants [Ohio Rev. Code §5705.28(D)]. ORC §5705.28(D) applies to association libraries and provides that to participate in the local government support fund, they must (1) demonstrate that their laws allow access to all people and (2) submit an estimate of revenue/expenditures to the taxing authority. Association libraries receiving monies from the library and local government support fund must also follow the depositing and investing requirements of Chapter 135 for public monies received (See OCS Chapter 2 for Chapter 135 requirements). Any private money they receive would remain private and be outside the purview of Chapter 135 of the Revised Code.

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
	Gen Budgetary Requirements			46	47		46						46	48	49

⁴⁶ If these entities levy taxes, the checkmarks apply. However, often they do not levy taxes. When they do not levy taxes, Ohio Rev. Code §5705.28 (B)(2) requires a comparable, but somewhat streamlined budget process. Ohio Rev. Code §5705.28(B)(2) requires entities to follow §5705.36, .38, .40, .41, .43, .44, and .45. However, documents prepared in accordance with these sections need not be filed with the county auditor or county budget commission. Also, while Ohio Rev. Code §5705.39 does not apply, §5705.28(B)(2)(c) prohibits appropriations from exceeding estimated revenue (i.e. receipts + beginning unencumbered cash). Ohio Rev. Code §4582.13 requires re-appropriation of surplus funds for Port Authorities.

⁴⁷ ~~If a general health district will not receive any part of its revenue for a fiscal year from an appropriation apportioned among the townships and municipal corporations composing the district, the board of health of the district shall adopt an annual appropriation measure for that fiscal year under section 3709.28 or sections 5705.38, 5705.39, and 5705.40 of the Revised Code. Ohio Rev. Code §3709.28 establishes budgetary requirements for General Health Districts, which are similar to certain Ohio Rev. Code Chapter 5705 budgetary requirements. On or about the first Monday of April the district must adopt an itemized appropriation measure. The appropriation measure, together with an itemized estimate of revenues to be collected during the next fiscal year, shall be certified to the county budget commission. Subject to estimated resources, the board of health may, by resolution, transfer funds from one appropriation item to another, reduce or increase any item, create new items, and make additional appropriations or reduce the total appropriation. Such appropriation modifications shall be certified to the county budget commission for approval. You should normally cite Ohio Rev. Code § 3709.28 (or 5705.38, 5705.39, 5705.40 — see first sentence of this footnote) if a General Health District: (1) does not adopt an itemized appropriation; (2) does not itemize estimated resources; or (3) appropriates more than its estimated resources as submitted to the county budget commission. Cite Ohio Rev. Code §5705.41(B) & (D) if a general health district: (1) disburses or encumbers more than appropriations at the legal level of control, or (2) obligates district moneys without the certification that section requires. Ohio Rev. Code §5705.28(C)(1) requires general health districts to file an estimate of contemplated revenue and expenses with the municipalities and townships within the district. They must file this by about June 1 (forty-five days prior to July 15). The county auditor cannot allocate property taxes from the municipalities and townships within the district if such filing has not been made (1984 Op. Atty. Gen. No. 84-013). NOTE: There is no requirement to design tests for all of the budgetary requirements listed in this footnote, only those that correspond to sections already in the OCS. For example, there are no budgetary filing deadline tests in the OCS, therefore there is no need to design tests for filing deadlines for General Health Districts.~~

⁴⁸ This column indicates which general compliance requirements are applicable to agricultural societies. However, auditors must also test the compliance requirements specific to agricultural societies that are described within OCS Chapter 1 Appendix A.

⁴⁹ Ohio Rev. Code Chapters 1724 and 1726 apply to community improvement corporations (CICs) and development corporations (DCs), respectively. Other than financial reporting (see OCS Chapter 4) the OCS does not include requirements generally considered to be direct and material. When auditing these entities, auditors should review the entity’s articles of incorporation, by-laws, and contract, grant and debt agreements, to determine whether potentially direct and material requirements apply.

Matrix 2

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Library	Council of Gov't	Reg Water & Sewer	General Health District	Joint Rec. District	Park Dist.	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag Soc.	DC & CIC
1-1	5705.38 Annual appropriations	50		✓		✓	✓	✓		✓	✓	✓	✓		
1-2	5705.41 (D); and 5705.42 Restrictions on appropriating/expending money including "Blanket" fiscal officer certificates	51, 51		✓ ⁵²	53	✓	✓	✓		✓	✓	✓	✓		
1-3	5705.40 Amending or supplementing appropriations			✓		✓	✓	✓		✓	✓	✓	✓		

⁵⁰ Ohio Admin. Code §117-8-02 requires libraries to adopt appropriation measures, and prohibits expending more than appropriated.

⁵¹ The majority of ORC Chapter 5705 applies to "subdivision", "taxing units", and "taxing authorities". However, R.C. 5705.41 also applies to "district authorities". Public library boards do not fall under any of these definitions, except, under certain circumstances, they can be considered district authorities. OAG 82-056 concluded that a board of public library trustees deriving funds from two or more subdivisions is therefore a district authority, subject to Ohio Rev. Code §5705.41. The Opinion provides that library funds derived from property tax proceeds are actually funds derived from the state, rather than funds derived from two or more subdivisions. The Opinion also provides that a special tax levied pursuant to R.C. 5705.23 would similarly not be considered "funds derived from two or more subdivisions" since the taxing authority's role would be strictly ministerial. The Opinion concludes by offering some examples of what could meet this definition, including the following levies: R.C. 5705.06(B), 5705.19(D), 3375.07, 3375.23, 3375.09, 3375.18, 3375.31, 3375.31 and 3375.42.

⁵² 5705.44 contains an exception that payments made from "earnings" are not required to use the 5705.41 (D) certificate. Therefore, payments from the utility operating fund do not require certification. (However, payments from utility grant funds DO require certification.)

⁵³ The only part of Ohio Rev. Code §5705.41 that does not apply to a general health district is §5705.41(A). Instead, Ohio Rev. Code §3709.28 (or 5705.38, 5705.39, and 5705.40.) applies to health districts. See related footnote on preceding page.

Matrix 2

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
1-4	5705.09 Establish funds and 5705.12 Permission to establish funds			✓ ⁵⁴		✓	✓ ⁵⁵	✓		✓	✓	✓	✓		
1-5	5705.10, 5731.48, and 3315.20(A) Distribution of levy revenue			✓		✓	✓	✓		✓	✓	✓	✓		
1-6	5705.14-.16 Transfer funds			✓		✓	✓	✓		✓	✓	✓	✓		
1-7	Various 5705 Sections & AOS Bulletin 97-003 – Advances ⁵⁶			✓		✓	✓	✓		✓	✓	✓	✓		
1-8	5705.13 Reserve Accounts & Funds			✓		✓	✓	✓		✓	✓	✓	✓		
1-9	135.21 and 135.351 Crediting invest. Earnings	✓	⁵⁷	⁵⁸		✓	✓ ⁵⁹	⁶⁰		✓	✓	✓	✓	✓	
1-9	5705.10 Disposition of tax revenues and proceeds					✓				✓	✓	✓	✓	✓	
1-11	3354.10(A), 3357.10, 3358.06, 5705.41(D) Treas. certificate							✓	✓						

⁵⁴ RC 5705.09 doesn't apply to Regional Water & Sewer.

⁵⁵ RC 5705.09 doesn't apply to Park Districts.

⁵⁶ Auditors should refer to Appendix A-1, *Transfers and Advances*, for guidance on using transfers and advances.

⁵⁷ While not subject to Ohio Rev. Code Chapter 135, Ohio Rev. Code §167.04 requires a council of government's bylaws to address investing, depositing and disbursing funds.

⁵⁸ For regional water and sewer districts, Ohio Rev. Code §6119.16 addresses investing funds and crediting interest.

⁵⁹ If a park district appoints a treasurer, Ohio Rev. Code §135.21 applies. If a park district does not appoint a treasurer, §135.351 applies. Ohio Rev. Code §135.351 requires park districts to credit interest as provided in §1545.22.

⁶⁰ Ohio Rev. Code §3354.10(A) and §3357.10 prescribe depository and security requirements for community and technical colleges.

Matrix 2

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
	Debt ⁶¹														
1-14	133.22 Leg. auth. Anticipation securities			✓		✓	✓	✓	✓	✓	✓	✓			
1-14	133.24 Tax anticipation notes			✓		✓	✓	✓	⁶²	✓	✓	✓			
1-14	5705.03 Auth. to levy taxes			✓ ⁶³		✓	✓	✓		✓	✓	✓	✓		
1-14	5705.05 Gen. levy for current exp.					✓		✓		✓	✓	✓	✓		
1-14	5705.09 Est. of funds					✓		✓		✓	✓	✓			
1-14	5705.10 Disp. and use of tax rev.					✓		✓		✓	✓	✓	✓		
1-14	505.401 Additional borrowing authority (Fire Districts)										✓	✓			
1-15	133.10, 133.22, and 133.24 Anticipation securities	✓ ⁶⁴		✓		✓	✓	✓	✓	✓	✓	✓	✓		
1-16	3375.404 Additional borrowing authority (Libraries)	✓													
1-17	133.29 Governments investing in their own securities	✓		✓		✓				✓	✓	✓			

⁶¹ If the entity has a specific section that refers to its ability to issue bonds, notes or anticipatory securities, that section would supersede the general debt provisions in Chapter 133.

⁶² For state universities, under Ohio Rev. Code §3345.66, they can issue notes, and this section states that Chapter 133 does not apply. However, if issuing bonds, Chapter 133 applies.

⁶³ For regional water and sewer districts and park districts, the only parts of Ohio Rev. Code §5705.03 that apply are those sentences referring to a “taxing unit.”

⁶⁴ County Library districts and regional library districts must follow Ohio Rev. Code Chapter 133. For all other libraries, only parts (A) and (B) of Ohio Rev. Code §133.10 apply.

Matrix 2

Chapter 1: Direct Laws (continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
1-18	ORC 117.38 and 1724.05; OAC 117-2-03 (B): Annual Financial Reporting ⁶⁵	✓	✓	✓	✓	✓	✓	✓	✓ ⁶⁶	✓	✓	✓	✓		✓
1-19	ORC 1724.05 & 1726.11; Annual Reporting														✓
1-20	ORC 9.833 and 305.172: Health Care Self Insurance ⁶⁷	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	
1-21	2744.081 Liability self-insurance	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
1-22	117.13(C)(3) Allocating Audit Costs	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-24	Federal, state and local taxes	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
1-25	Employees' Retirement Sys.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		

⁶⁵ Note: Community improvement corporations and development corporations are the only entities on this matrix required to follow GAAP. However for all entities listed on this matrix, auditors and financial statement preparers should read the guidance in AOS Bulletin 2008-01.

⁶⁶ Ohio Rev. Code §3345.72(b) requires state universities and colleges to submit annual financial reports to the Auditor of State within 4 months after the end of the fiscal year (see Auditor of State Bulletin 2001-012).

⁶⁷ See bulletin 2001-05 appendix 2 for a detailed table regarding the specific requirements for each type of self-insured subdivision. Only test the OCS steps to the extent they apply and are mandatory for the subdivision under audit.

Matrix 2

Chapter 2: Indirect Laws & Statutorily Mandated Tests

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
2-1	5705.39 Amended Certificates and Limitation of appropriations			✓		✓	✓	✓		✓	✓	✓	✓		
2-2	5705.41(A), (B); and 5705.42 Restrictions on appropriating/expending money	68		✓	69	✓	✓	✓		✓	✓	✓	✓		
2-4	OAC 117-2-02 Required accounting records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
2-6 through 2-8	135.14 and 135.144 Eligible investments of interim monies	✓				✓	✓			✓	✓	✓	✓	✓	

⁶⁸ The majority of ORC Chapter 5705 applies to “subdivision”, “taxing units”, and “taxing authorities”. However, R.C. 5705.41 also applies to “district authorities”. Public library boards do not fall under any of these definitions, except, under certain circumstances, they can be considered district authorities. OAG 82-056 concluded that a board of public library trustees deriving funds from two or more subdivisions is therefore a district authority, subject to Ohio Rev. Code §5705.41. The Opinion provides that library funds derived from property tax proceeds are actually funds derived from the state, rather than funds derived from two or more subdivisions. The Opinion also provides that a special tax levied pursuant to R.C. 5705.23 would similarly not be considered “funds derived from two or more subdivisions” since the taxing authority’s role would be strictly ministerial. The Opinion concludes by offering some examples of what could meet this definition, including the following levies: R.C. 5705.06(B), 5705.19(D), 3375.07, 3375.23, 3375.09, 3375.18, 3375.31, 3375.31 and 3375.42.

⁶⁹ The only part of Ohio Rev. Code §5705.41 that does not apply to a general health district is §5705.41(A). Instead, Ohio Rev. Code §3709.28 applies to health districts.

Matrix 2

Chapter 2: Indirect Laws & Statutorily Mandated Tests (Continued)

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
2-9	135.18 & 135.181; 12 CFR 330 Security for repayment of public deposits	✓		✓		✓	✓ ⁷⁰			✓	✓	✓	✓	✓	
2-21	Various-Investment Education ⁷¹	✓				✓	✓			✓	✓	✓	✓	✓	
2-22	1979 Op. Atty Gen. No. 79-111 Prohibitions from holding office and 117.103(B)(1) Fraud Hotline	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
2-22	Various ⁷²	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2-23	149.43 and 149.431 Availability of public records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	

⁷⁰ If a park district appoints a treasurer, then Ohio Rev. Code §131.18 and §131.181 may apply. If a treasurer is not appointed, two things could happen:
 a. The board can resolve to select a depository per §135.01-135.21, in which case §135.18 or §135.181 apply (OCS step 2-6); or
 b. If board resolutions are silent on this matter, the district must follow the procedures for county funds, which is Ohio Rev. Code §135.37 (OCS step 2-10)

⁷¹ If the treasurer of an entity invests under Ohio Rev. Code §135.14, the training requirements in §135.22 may apply.

⁷² Some provisions of these OCS Sections have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

Matrix 2

Chapter 3: Stewardship

Step No.	Requirement	Library	Council of Gov't	Regional Water & Sewer	General Health District	Joint Rec. District	Park District	Comm. & Technical College	State Colg./ Univ.	Joint Amb. Dist.	Joint Fire Dist.	Joint Police Dist.	Port Auth.	Ag. Soc.	DC & CIC
3-1	9.38 Deposits of public money	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
3-2	121.22 Meeting of public bodies	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
3-3	149.43 and 149.431 Availability of public records	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
3-3	Compensation, etc.							✓	✓						
3-4	Prohibited Political Activity ⁷³	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
3-5	Various – investment education⁷⁴	✓				✓	✓			✓	✓	✓	✓	✓	
3-5	1545.05 Park commission						✓								
3-5	3375.32 Library clerk	✓ ⁷⁵													
3-5	505.71 Joint ambulance district									✓					
3-5	505.372 Joint fire district clerk										✓				
3-5	505.484 Joint police district											✓			

⁷³ Some provisions of these OCS Sections have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

~~⁷⁴ If the treasurer of an entity invests under Ohio Rev. Code §135.14, the training requirements in §135.22 may apply.~~

⁷⁵ For park districts, the bond amount is \$5,000. For libraries, joint ambulance districts and joint fire districts, the board determines the clerk/treasurer’s bond amount. Each university’s Ohio Rev. Code section prescribes its bonding requirements.

Matrix 3

Chapter 1: Direct Laws

Step No.	Requirement	County	Township	City	Village	Public & STEM Schools	Community School
1-1	5705.38: Annual appropriation measure	✓	✓	✓	✓	✓	
1-2	5705.41 (D); 5705.42:Restrictions on the appropriation/expd. of money including "Blanket" fiscal officer certificates	✓	✓	✓	✓	✓	
1-3	5705.40: Amending or supplementing appropriations	✓	✓	✓	✓	✓	
1-4	5705.09: Establishing funds and 5705.12 Permission to establish funds	✓	✓	✓	✓	✓	
1-5	5705.10, 5731.48 and 3315.20(A): Distributing revenue derived from tax levies, etc.	✓	✓	✓	✓	✓	
1-6	5705.14, 5705.15, 5705.16: Transfer of funds	✓	✓	✓	✓	✓	
1-7	Auditor of State Bulletin 97-003, and various ORC Sections: Advances	✓	✓	✓	✓	✓	
1-8	5705.13 (A): Reserve balance accounts and funds	✓	✓	✓	✓	✓	
1-9	Article XII, Section 5a, Ohio Constitution; ORC 135.21, 5705.131, and 5705.10; 1982 Op. Atty. Gen. No. 82-031: Allocating interest among funds	—	✓	✓	✓	✓	—
1-10	Article XII, Section 5a, Ohio Constitution; ORC 135.351 and 5705.10; 1982 Op. Atty. Gen. No. 82-031: Allocation of interest among funds	✓					
1-9	5101.144: Use of Children Services Fund for all such receipts	✓					

Matrix 3

Chapter 1: Direct Laws (continued)

Step No.	Requirement	County	Township	City	Village	Public & STEM Schools	Community School
1-10	339.06: Organization of board of trustees; funds; administrator (hospitals)	✓					
4-14	3315, 3317; and 117-2: Capital reserve accounts					✓	
1-12	3313.33: Conveyances and contracts					✓	
1-13	Chapter 3318: Permissible expenditures for school districts participating in the Classroom Facilities Loan Program (and related classroom facility programs)					✓	
1-14	Ohio Const. Art. XII, Section 11; Ohio Const. Art. XVIII, Section 12, ORC 133.10, 133.22 133.24, 321.34, 5705.03, 5705.05, 5705.09 and 5705.10; 1981 Op. Atty Gen. No. 81-035: Retiring Debt	✓	✓	✓	✓	✓	
1-15	133.10, 133.22 & 133.24: Anticipation Notes	✓	✓	✓	✓	✓	
1-17	133.29; 731.56 Governments Investing in Their Own Securities	✓	✓	✓	✓	✓	

Matrix 3

Chapter 1: Direct Laws (continued)

Step No.	Requirement	County	Township	City	Village	Public & STEM Schools	Community School
1-18	OAC 117-2-03 (B): GAAP Financial Reporting (counties, cities, school districts, and community schools) , ORC 117.38 ⁷⁶	✓	✓	✓	✓	✓	✓
4-23	3314.024 Footnote disclosure of management company expenses						✓
1-20	ORC 9.833 and 305.172: Health Care Self Insurance ⁷⁷	✓	✓	✓	✓	✓	
1-21	2744.081: Liability Self Insurance	✓	✓	✓	✓	✓	✓
1-22	117.13(C)(3) Allocating Audit Costs	✓	✓	✓	✓	✓	✓
1-23	Various ORC sections: Vacation and sick leave benefits	✓	✓	✓	✓	✓	
1-24	Various federal and state codes: Income tax collection, liability etc	✓	✓	✓	✓	✓	✓
1-25	Various ORC sections: Definitions, rates of contributions etc	✓	✓	✓	✓	✓	✓
1-26	3313.981(F), 3317.01, 3317.02, 3317.03 and 3321.04 :School District Average Daily Membership					✓	
1-27	ORC 3313.64, 3314.03, 3314.08 – Community School Funding						✓
1-28	517.15: Permanent cemetery endowment fund		✓				
1-29	507.09; 505.24(C) and OAG Op. 2004-036 Allocating township trustee and fiscal officer compensation		✓				

⁷⁶ Note: Counties, Cities, STEM’s, and Community Schools are the only entities on this matrix required to follow GAAP. However for all entities listed on this matrix, auditors and financial statement preparers should read the guidance in AOS Bulletin 2008-01.

⁷⁷ See bulletin 2001-05 appendix 2 for a detailed table regarding the specific requirements for each type of self-insured subdivision. Only test the OCS steps to the extent they apply and are mandatory for the subdivision under audit.

Matrix 3

Chapter 2: Indirect Laws & Statutorily Mandated Tests

Step No.	Requirement	County	Township	City	Village	Public & STEM Schools	Community School
2-1	5705.39: Amended certificates and appropriations limited by estimated resources	✓	✓	✓	✓	✓	
2-2	5705.41 (A)(B); 5705.42: Restrictions on the appropriation/expd. of money	✓	✓	✓	✓	✓	
2-3	3314.24(A) E-school leases for instructional space						✓
2-4	OAC 117-2-02 Required accounting records	✓	✓	✓	✓	✓	✓
2-5	3314.024 Footnote disclosure of management company expenses						✓
2-6	135.14, 135.144, 133.03(A)(1): Eligible investments for interim monies		✓	✓	✓	✓	
2-7	135.14, 133.03(A)(1): Other requirements		✓	✓	✓	✓	
2-8	135.142, 135.14(B)(7): Other allowable investments		✓	✓	✓	✓	
2-9	135.18, 135.37, 135.181; 12 CFR 330: Security for repayment of public deposits	✓	✓	✓	✓	✓	
2-10	135.35: Eligible investments	✓					
2-11	135.35: Other requirements	✓					
2-12	Community School Investments						✓
2-13	3314.03 Sponsor monitoring of community schools						✓
2-14	2335.25, 1901.31, 1905.21: Cashbook of costs etc	✓		✓			
2-15	Various ORC Sections: Electric kilowatt-hour tax ⁷⁸	✓		✓	✓		

⁷⁸ This step cannot be superseded by home rule powers.

Matrix 3

Chapter 2: Indirect Laws & Statutorily Mandated Tests (Continued)

Step No.	Requirement	County	Township	City	Village	Public & STEM Schools	Community School
2-16	117.16(A), 723.52 – Force Accounts [Certain] Municipal Corporations [Cities/Villages]			✓	✓		
2-17	117.16(A), 5543.19 – Force Accounts – Counties	✓					
2-18	117.16(A), 5575.01 – Force Accounts – Townships		✓				
2-19	117.111(A) Security controls over counties' electronic records	✓					
2-20	OAC 3745-27-15 through 18: Landfill Certifications	✓	✓	✓	✓		
2-21	Various – Investment Education	✓	✓	✓	✓	✓	
2-22	Various ORC Sections: Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics	✓	✓	✓	✓	✓	✓
2-23	149.43: Availability of public records	✓	✓	✓	✓	✓	✓
2-24	3313.666(A), (B), and (C) and 3314.03(A)(11)(d) Anti-Bullying Provisions					✓	✓

Matrix 3

Chapter 3: Stewardship

Step No.	Requirement	County	Township	City	Village	Public & STEM Schools	Community School
3-1	9.38: Deposits of public money	✓	✓	✓	✓	✓	✓
3-2	121.22: Meeting of public bodies to be open, exceptions, and notice	✓	✓	✓	✓	✓	✓
3-3	149.43: Availability of public records	✓	✓	✓	✓	✓	✓
3-3	Various ORC sections: Appointments, compensation, contracts etc	✓	✓	✓	✓	✓	✓
3-4	Prohibited Political Activity ⁷⁹	✓	✓	✓	✓	✓	
3-5	Various ORC Sections: Bonding requirements	✓	✓	✓	✓	✓	✓
3-6	3314.08(J): Foundation Anticipation Notes						✓
3-7	307.93(F), 341.25, 753.22, and 2301.57: Accounting treatment of Commissaries	✓		✓	✓		
3-8	2335.34 - .35: Unclaimed costs and fees (court of common pleas and probate court)	✓					
3-9	1907.20: Records required of county courts	✓					
3-10	1901.31-.32: Municipal court records	✓		✓			
3-11	1905.21 and 733.40: Records required and disposition of receipts for mayor's court			✓	✓		
3-12	Various ORC Sections: Collection, custody and disbursement of fees, fines	✓		✓	✓		
3-13	2743.70, 2949.091, 2949.093 and 2949.094: Additional court costs	✓		✓	✓		
3-14	319.04: Training and continuing education requirements for county auditors	✓					
3-15	325.071, 325.12, and 325.13: Furtherance of justice allowance and 2925.03, 2929.18, 2925.03, 2925.42 Law Enforcement trust fund	✓					
3-18	507.09; 505.24(C) and OAG Op. 2004-036 Allocating trustee per diem costs to funds		✓				
3-16	505.60, 505.601, and 2005 Op. Atty. Gen. No. 2005-038: Reimbursement of insurance premiums – Townships		✓				
3-17	505.603 - "Cafeteria Plans" – Townships		✓				

⁷⁹ Some provisions of these OCS Sections have general applicability while others do not. Also, other requirements may apply. Auditors should be alert for circumstances which raise questions about whether such activity has occurred and seek legal counsel when questionable activity is noted.

Questions and Comments

The Auditor of State welcomes comments and suggestions on the *OCS*. Please submit them through:

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