

CHAPTER 1 DIRECT LAWS

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 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 Ohio Rev. Code Chapter 5705 (via GASB Cod. 2400) prescribes to compile budget and actual amounts and budget variances GAAP requires.
 - Ohio Rev. Code Chapter 5705 generally prescribes a cash + encumbrance accounting basis, which a compiler must understand and follow to satisfy GAAP.

In addition to the discussion above from AU-C 250, the AICPA Audit and Accounting Guide *State and Local Governments*, sections 4.0940 through 4.22, 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

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.

Cash / AOS basis governments’ *information systems* include documents used to prepare / support notes to the statements.

- Require reporting as a material GAGAS noncompliance finding.
- May represent significant / material violations of “finance-related legal ~~and~~ contractual provisions”
 - ~~SLG 4.1314~~ and GASB Cod. 2300.106(h) require “notes to the financial statements should disclose material violations of finance-related legal and contractual provisions” and “actions taken to address significant such violations”.
 - See table regarding 4.1314 below in ~~the~~ this implementation guide.

SLG 4.1213 lists examples of laws that may directly and materially affect the determination of financial statement amounts and disclosures. When preparing this edition of the OCS we considered the examples in 4.1213. 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.

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**BUDGETARY REQUIREMENTS
ALL ENTITY TYPES**

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

Summary of Requirements:

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

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

The taxing authority of a taxing unit that does not levy a tax must still appropriate at the minimum level of control prescribed by Ohio Rev. Code §5705.38(C) (or a lower level). No budget commission approval is required by 5705.28(B)(2)².

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

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

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

² 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.

Legal Level of Control: Minimum Requirements³

1. Ohio Admin. Code § 117-2-02(C)(1) states in part: “The legal level of control is the level (e.g. fund, program or function, department, object) at which spending in excess of budgeted amounts would be a violation of law. This is established by the level at which the legislative body appropriates. For all local public offices subject to the provisions of Ohio Rev. Code Chapter 5705, except school districts and public libraries, the minimum legal level of control is described in Ohio Rev. Code § 5705.38 (see 2 below). For school districts, the minimum legal level of control is prescribed in Section 117-6-02 of the Administrative Code (See 3 below). For public libraries, the minimum legal level of control is prescribed in Section 117-8-02 of the Administrative Code (See 4 below). The legal level of control is a discretionary decision to be made by the legislative authority, *unless otherwise prescribed by statute.*”
2. Ohio Rev. Code § 5705.38(C) requires the following minimum level of budgetary control for “subdivisions” other than schools: “Appropriation measures shall be classified so as to set forth separately the amounts appropriated for each office, department, and division, and, within each, the amount appropriated for personal services.”⁴
3. Ohio Admin. Code § 117-6-02 prescribes the following for school districts’ legal level of control: At a minimum, appropriation measures shall be classified to set forth separately the amounts appropriated by fund. The appropriation measure as passed by the school board shall be the legal level of control. This is the level at which compliance with statutory budgetary requirements will be determined. **The AOS recommends that boards of education pass appropriations at a more detailed level. This is, however, a discretionary decision for the board of education based on the degree of control the board of education wishes to maintain over the financial activity of the school district.**
4. Ohio Admin. Code § 117-8-02 requires the library's legislative body shall adopt appropriation measures. These measures establish the legal level of control.

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

⁴ Staff should exercise judgment in determining whether to cite these governments. The following provides some guidance in determining this:

- Because OAC 117-6-02 permits school districts to use the fund as their level of budgetary control, we presume noncompliance will not be an issue for school districts.

Because other facts and circumstances may arise regarding this matter, or if you are unsure whether citing a taxing district for this matter is fair, please consult with your regional chief auditor. If the regional chief is unsure, they can present the facts and circumstances to their Center for Audit Excellence Support representative.

5. Ohio Admin. Code § 117-2-02(C)(1) also states in part: all local public offices should integrate the budgetary accounts, at the legal level of control or lower, into the financial accounting system. This means designing an accounting system to provide ongoing and timely information on unrealized budgetary receipts and remaining uncommitted appropriation balances.

Amounts / Funds Not Subject to Budgeting:

- The nonexpendable principal of nonexpendable trust funds.⁵ Appropriating nonexpendable principal would authorize the fiscal officer to spend the principal in violation of the trust agreement. [5705.36(A)]
- Budget stabilization reserves [§ 5705.13, 5705.29(G)]
- The balance in a township reserve balance account established under section 5705.132 of the Ohio Rev. Code.
- For some time, AOS policy has been that agency funds do not require budgeting. Agency funds account for money a government holds in an agency capacity on behalf of another person or entity. Therefore, a government has minimal discretion in spending this money. Accordingly, the legislative body need not authorize a purpose for spending the money.

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

⁵ The ORC still refers to *nonexpendable trust funds*. GASB 54 amended GASB 34 and now requires classifying amounts legally or contractually required to be maintained (e.g., the principal of a Permanent Fund) as Non-expendable Fund Balances (and Restricted Net Assets in entity-wide statements). See AOS Bulletin 2011-004. Private-Purpose Trust Funds, on the other hand, are not subject to GASB 54 fund balance classifications. GASB 34 and 54 do not affect this ORC requirement. That is, these ORC requirements still apply to private purpose trust and permanent funds.

Suggested Audit Procedures - Compliance (Substantive) Tests:

Read the minutes and determine if the governing board adopted an annual appropriation measure by the required date.

If a school district has delayed adoption of an annual appropriation measure, inquire about the reasons for the delay.

Scan appropriation measures to determine whether they meet at least the minimum legal level of control 5705.38(C) prescribes.

Determine if the accounting system “integrates” budgetary data at the legal level of control. This means the accounting system should report appropriations, encumbrances, unencumbered cash balances, and estimated receipts, and should compare budgetary data to actual results. If the client uses a manual system (i.e. spreadsheets) determine if the manual system used by the client adequately tracks and compares budgetary data.

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

1-2 Compliance Requirements: Ohio Rev. Code Sections 5705.41 (D); and 5705.42 Restrictions on appropriating and expending money.

Summary of Requirements:

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

Similarly, Federal and State grants or loans are “*deemed appropriated*”⁶ for such purpose by the taxing authority” as provided by law and shall be recorded as such by the fiscal officer of the subdivision, and is deemed in process of collection [Ohio Rev. Code §5705.42].

No orders or contracts involving the expenditure of money are to be made unless there is a certificate of the fiscal officer that the amount required for the order or contract has been lawfully appropriated and is in the treasury **or in the process of collection**⁷ to the credit of an appropriate fund free from any previous encumbrances. [Ohio Rev. Code §5705.41(D)].^{8 9}

If an entity levies taxes, Ohio Rev. Code §5705.41 applies. However, some entities with taxing authority do not levy taxes. When they do not levy taxes, Ohio Rev. Code §5705.28 (B)(2) permits a comparable, but somewhat streamlined budget process. Ohio Rev. Code §5705.28(B)(2) requires entities to follow §5705.41.¹⁰

⁶ “Deemed an appropriation” under this section means the Federal or State government has already appropriated and established the purpose(s) for which a government can spend monies received from Federal or State grants and loans. The taxing authority cannot deviate from this purpose; the taxing authority can only resolve to spend the money for a purpose already prescribed in a contract, grant agreement, loan agreement, etc. Therefore, Federal and State grants and loans received under Ohio Rev. Code §5705.42 *do not* require formal appropriation by the legislative body. In other words, Ohio Rev. Code §5705.42 effectively eliminates an unnecessary appropriation action by the taxing authority. However, Ohio Rev. Code §5705.42 directs the fiscal officer to *record* the appropriation amount in the accounting system. The fiscal officer should also include the appropriated amounts on the (amended) certificate to properly monitor budget versus actual activity. Note: Amounts “deemed appropriated” are subject to inclusion in GAAP budgetary presentations (GASB Cod. 2400.102). The government has no legal authority to spend these resources unless they were either appropriated by the legislative authority or deemed appropriated by the Federal or State government. (2013-14 GASB Comprehensive Implementation Guide Q&A 7.91.14.).

⁷ It is permissible to certify a purchase without sufficient cash “in the bank” if a government is reasonably certain cash will be on hand in time to pay the invoice when due (i.e. is “**in the process of collection**”). For example, the Ohio EMA disburses Homeland Security grants only when the local government certifies to OEMA they have an invoice on hand requiring payment. Since the government will receive OEMA’s cash in time to pay the vendor, the CFO can certify the acquisition even if there is no cash in the fund at the time of the certification. (This assumes there is sufficient appropriation for the payment).

⁸ Under Ohio Rev. Code §9.10, 9.11 and 1990 Op. Atty. Gen. No.. 90-082, the fiscal officer need not manually sign each certification. Electronic or mechanical signatures are permissible. However, Ohio Rev. Code §9.10 expressly prohibits using rubber stamp signatures. (We likely would not deem using a rubber stamp to be material noncompliance.)

⁹ Ohio Rev. Code §3315.20 permits schools to incur a fund cash deficit in certain circumstances.

¹⁰ 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

Per 5705.41(D)(3), "Contract" as used in this section excludes current payrolls of regular employees and officers.

Note: See Appendix A-2 of the OCS Implementation Guide for examples of direct charges that do not require a certificate under 5705.41(D).

The statute provides the following exceptions to this basic requirement:

Then and Now Certificate: This exception provides that, if the fiscal officer can certify that both at the time that the contract¹¹ or order was made and at the time that he is completing his certification, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance, the taxing authority can authorize the drawing of a warrant. The taxing authority has 30 days from the receipt of such certificate to approve payment by resolution or ordinance. If approval is not made within 30 days, there is no legal liability on the part of the subdivision or taxing district.

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

Fiscal officers may prepare "blanket" certificates for a sum not exceeding an amount established by resolution or ordinance¹² adopted by the members of the legislative authority against any specific line item account over a period not extending¹³ beyond the end of the current fiscal year. The blanket certificates may, but need not, be limited to a specific vendor. Only one blanket certificate may be outstanding at one particular time for any one particular line item¹⁴ appropriation.

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.

¹¹ 1987 Op. Atty. Gen. No. 87-069 concluded that when a government uses *Then and Now* certificates, they should charge the cost to the appropriation in effect at the time they incurred the obligation. For example, if a calendar-year government orders an item in December 2012, the government should charge the cost to 2012 appropriations, even if the fiscal officer signs a *Then and Now* Certificate in January 2013.

¹² The governing authority is only required to adopt one ordinance or resolution establishing the dollar limits for blanket certificates. A separate ordinance or resolution approving *each* individual blanket certificate is not necessary.

¹³ We interpret the word "*extends*" in this context as the authority to certify commitments against a regular blanket certificate or super blanket certificate that expires at year end. However, the authority to pay against previously certified commitments continues until all outstanding commitments are paid. (In other words, the government should consider these unpaid year-end commitments similar to other outstanding commitments/encumbrances, and reduce next year's opening unencumbered balances for these amounts.)

¹⁴ There is no additional legal explanation for what "*line item appropriation*" means in this context; therefore, AOS interprets "line item" to mean accounting line item, which is not necessarily the "legal level of control."

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

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

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

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

Payments made from the earnings of a public utility are exempted from the certification (and encumbering) requirements of Ohio Rev. Code section 5705.41(D). [Ohio Rev. Code §5705.44 and 1987 Op. Atty. Gen. No. 87- 069]. However, these payments are still subject to the requirements of Ohio Rev. Code section 5705.41(B).

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

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

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

If under a continuing contract delivery of goods or services is to occur in the current fiscal year with the obligation to make payment deferred until an ensuing fiscal year, the amount required to meet the obligation for goods or services delivered during the current fiscal year must be certified as available in that fiscal year.

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

County Commissioner Authorization: A board of county commissioners, by resolution, may exempt purchases of \$1,000 or less from the prior certification requirement. The resolution must specify the

dollar limit applicable to such purchases and whether it applies to all purchases, is limited to certain classes of purchases, or is limited to specific purchases. The board must notify the county auditor in writing of its intention to adopt such a resolution and the scope of the resolution. The county auditor has 15 days to comment on the resolution before it may be adopted by the board. Where such a resolution has been adopted, any person authorized to make purchases, within 3 business days (or other time limit the commissioners resolve) of making a purchase exempted under the resolution, must file with the county auditor a written or electronic document stating the purpose, amount, appropriation line item and date of the purchase, and the name of the vendor.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Search for material unrecorded liabilities and/or encumbrances at year end. Refer to minutes and records immediately following the fiscal year cutoff date.

During the search for material unrecorded liabilities and/or encumbrances at year end, compare the date of the fiscal certificates with invoice dates, noting whether or not the certificate date precedes the invoice/obligation date and was recorded as an encumbrance in the proper year.

Note:

- The obligation date may precede the invoice date. If separately identified, use the obligation date when determining compliance.
- As interpreted by AOS Bulletin 97-012, if the government does not expect to complete the project in the current year, the remainder of the project must be appropriated immediately in the subsequent year(s).

Inspect a representative number of “regular blanket” certificates outstanding near year end and determine that:

- The amount is established by an ordinance or resolution passed by a majority of the legislative body. (If the legislative authority passed this in the prior years, agree to permanent file documentation.)
- They are not dated after the fiscal year end.
- They do not exceed the amount the legislative body established.
- Only one certificate is outstanding per line item appropriation.

For subdivisions using “super blanket” certificates, inspect the certification of the fiscal officer and determine whether:

- The certificates were for professional services, fuel, oil, food items or any other specific recurring and reasonably predictable operating expense and,
- They do not run beyond the fiscal year (or quarterly spending plan, if a county adopted a plan).

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

1-3 Compliance Requirement: Ohio Rev. Code §5705.40 Amending or supplementing appropriations, contingencies.

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

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

Per AOS Bulletin 97-010, budgeted expenditures coincide with either the final appropriations the legislative body passed prior to fiscal year-end or the sum of those final appropriations plus encumbrances carried forward from the prior year. *That is, the AOS does not recognize appropriation amendments retroactive to the prior year.* The statutory budget process codifies what are or should be good management practices. These processes provide a framework that helps management and legislators reasonably control spending.

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

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

changes in laws and regulations to employees		
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Suggested Audit Procedures - Compliance (Substantive) Tests:

Inquire (or determine from reading the minutes) if amended or supplemental appropriation measures have been passed.

Inspect the government’s records to determine if selected appropriation amendments were accurately and timely posted into an accounting system that integrates budget and actual receipts and disbursements. If the client uses a manual system (i.e. spreadsheets) determine if the manual system used by the client adequately tracks and compares budgetary data. Base the extent of this testing on the control environment, especially the CFO’s competence and dedication to complying with Ohio Revised Code requirements, past errors noted, etc.

Match appropriations amendments, supplements and intrafund appropriation “transfers” recorded in the accounting system with resolutions or ordinances.

Note: We suggest you test the general and other major / large funds and perhaps rotate a few smaller funds each audit.

- o However, normally scanning the fund-accounting records and listing noncompliance as of year end is not time consuming. This should be a reliable test if evidence suggests the auditee accurately records all budgetary amendments into its accounting system, and if the system reports negative variances.
- o Also consider including funds for which we reported noncompliance in the prior audit.

There is rarely a need to “recreate” the budget in the working papers. That is, we do not require a spreadsheet listing all funds’ estimated resources, appropriations (and amendments thereto), receipts, disbursements, and encumbrances.

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

REQUIREMENTS OF REVENUE, FUNDS, AND TRANSFERS

1-4 Compliance Requirement: Ohio Rev. Code §5705.09 and 5705.12 Establishing funds and Permission to establish funds.

Summary of Requirements: Each subdivision must establish the following funds:

- General fund;
- Sinking fund whenever the subdivision has outstanding bonds other than serial bonds;
- Bond retirement fund, for the retirement of serial bonds, notes, or certificates of indebtedness;
- A special fund for each special levy;
- A special bond fund for each bond issue;
- A special fund for each class of revenues derived from a source other than the general property tax, which the law requires to be used for a particular purpose;
- A special fund for each public utility operated by a subdivision;
- A trust fund for any amount received by a subdivision in trust.

Additionally subdivisions should establish the funds described in Ohio Rev. Code §5705.121, 5705.13, 5705.131, 5709.43, 5709.75, and 5709.80 when applicable. Establishing these funds (or other funds statutes mandate) does not require Auditor of State authorization.

However, should a taxing authority desire to establish other funds not authorized in the Ohio Revised Code, they must obtain **approval of the Auditor of State**. The subdivision may provide by ordinance or resolution that money derived from special sources other than the general property tax shall be paid directly into such funds.

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

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

In some circumstances, the AOS deems the use of additional funds unnecessary and will not approve the request. See AOS Bulletin 1999-006 for additional information.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Compare funds on the subdivision’s chart of accounts with funds that existed in the prior audit period.

For any new funds, apply the following steps:

- Inspect authority (e.g., board resolution) to establish the fund.
 - *Note: The legislative body of a local government may always specify, for management purposes, how they want specific resources spent. Absent any statutory restrictions on such resources, an internal purpose restriction does not justify the creation of a separate fund. New funds must be created based on the guidelines in AOS Bulletin 1999-006.*
- Determine code section under which established.
- If not established under State statute, inspect Auditor of State approval letters for funds created during the current audit period.
 - If a fund is not authorized under Ohio Rev. Code §5705.09 or another Ohio Rev. Code section and the entity did not receive Auditor of State approval to establish the fund, propose findings for adjustment to remove the unauthorized fund(s) and place the activity in the General Fund or other appropriate fund. *(If the fund was set up properly for GAAP purposes a finding for adjustment may not be necessary. Additionally, we will not apply this retroactively to funds existing from prior audit periods.)*
- Read ordinances and resolutions regarding how monies derived from special sources are to be used. Trace a representative number of receipts into the funds or accounts required by the ordinances or resolutions.

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

Revised: HB 483, 130th GA
Effective: 9/15/14

1-5 Compliance Requirement: Ohio Rev. Code §5705.05-.06, 5705.10, 5705.14(E), 5731.48, and 3315.20(A). Distributing revenue derived from tax levies, proceeds from sale of bond issue, proceeds from sale of permanent improvement, and depositing estate taxes into the general fund

Summary of Requirements:

- All revenue derived from the following must be paid into the general fund [Ohio Rev. Code § 5705.10, unless otherwise indicated below]:
 - the general levy for current expense within the ten mill limitation,
 - any general levy for current expense authorized by vote in excess of the ten mill limitation, and from sources other than the general property tax, unless its use for a particular purpose is prescribed by law (see the circumstances requiring a separate fund in the preceding OCS Step)
 - Counties are precluded from using general levy revenue for current expenses for the construction, reconstruction, resurfacing, and repair of roads and bridges. [Ohio Rev. Code §5705.05 & .06]. Other entities (except counties) may transfer general levy revenue for current expenses to Road and Bridge Funds via a resolution passed by a simple majority of the governing authority [Ohio Rev. Code §5705.14(E)] or may pay for these expenses directly from the General Fund [Ohio Rev. Code §5705.05 & .06].
 - Estate taxes received by a township or municipal corporation under Ohio Rev. Code § 5731.48
 - **Exceptions:**
 - Villages: (A)(2) To the general revenue fund of a village or to the board of education of a village, for school purposes, as the village council by resolution may approve;
 - Townships: (A)(3) To the general revenue fund or to the board of education of the school district of which the township is a part, for school purposes, as the board of township trustees by resolution may approve, in the case of a township.
 - Municipal Corporations: (D) If a municipal corporation is in default with respect to the principal or interest of any outstanding notes or bonds, one half of the [estate] taxes distributed under this section shall be credited to the sinking or bond retirement fund of the municipal corporation, and the residue shall be credited to the general revenue fund.
- All revenue derived from general or special levies for debt charges which is levied for the debt charges on serial bonds, notes, or certificates of indebtedness having a life less than five years, must be paid into the bond retirement fund. All such revenue which is levied for the debt charges on all other bonds, notes, or certificates of indebtedness is to be paid into the sinking fund [Ohio Rev. Code § 5705.10(B)].
- All revenue derived from a special levy is to be credited to a special fund for the purpose for which the levy was made [Ohio Rev. Code §5705.10(C)].¹⁵

¹⁵ Townships receiving distributions from the Gasoline Excise Tax Fund in the state treasury are permitted to use that money to pay debt service on State Infrastructure Bank obligations. (Ohio Rev. Code §§5531.10 and 5735.27)

- All revenue derived from a source other than the general property tax and which the law prescribes, shall be used for a particular purpose is to be paid into a special fund (see step 1-4 for a listing of possible “special” funds) for such purpose [Ohio Rev. Code §5705.10].
- All proceeds from the sale of public obligations or fractionalized interests in public obligations as defined in Ohio Rev. Code §133.01, *except premium and accrued interest*, are to be paid into a special fund for the purpose of such issue. Any interest earned on money in the special fund may be used for the purposes for which the indebtedness was authorized, or may be credited and used for an authorized fund or account [Ohio Rev. Code § 5705.10(E)].
- The *premium* and *accrued interest* received from the sale of public obligations or fractionalized interests in public obligations as defined in Ohio Rev. Code §133.01 is to be paid into the subdivision's sinking fund or the bond retirement fund [Ohio Rev. Code § 5705.10(E)].

Note: We wish to emphasize to governments and to their auditors the importance of complying with this. We have seen recent instances where investors desire interest payments exceeding market rates. They are willing to exchange the necessary up-front payment (*premium*) to obtain these returns in the future. When this occurs, debt proceeds will include the premium, which may be a substantial amount. If the debt is restricted for a capital project (for example), governments should *not* deposit the premium into a capital project fund. Instead, Ohio Rev. Code § 5705.10(E) prudently requires governments to deposit the premium in a sinking / bond retirement / debt service fund, to set aside amounts for the above-market interest payable over the debt's duration.

Depositing premiums (or accrued interest) into a fund other than the sinking / bond retirement would violate the requirements above, and be subject to a finding for adjustment, see Auditor of State Bulletin 2014-001 for more information.

- If a board of education of a school district disposes of real property under Ohio Rev. Code § 3313.41, the proceeds received on or after September 29, 2013, from the sale shall be used to either:
 - Retire any debt that was incurred by the district with respect to that real property. Proceeds in excess of the funds necessary to retire that debt may be paid into the school district's capital and maintenance fund and used only to pay for the costs of nonoperating capital expenses related to technology infrastructure and equipment to be used for instruction and assessment fund, or
 - Payed into a special fund for the construction or acquisition of permanent improvements [Ohio Rev. Code § 5705.10(H)].
- If a park district enters into an agreement for the sale or lease of mineral rights regarding a park within the district, the royalties or moneys from that sale or lease must be deposited into a special fund created by the board of park commissioners to be used exclusively for the maintenance of parks within the District or for acquisition of new park lands [Ohio Rev. Code § 1545.23].
- If a permanent improvement of the subdivision is sold, the amount received from it shall be paid into the sinking fund, the bond retirement fund, or into a special fund for the construction or acquisition of permanent improvements [Ohio Rev. Code § 5705.10(F)].¹⁶ However, after a county home has been

¹⁶ Ohio Rev. Code § 5705.10(F) & (G), include an exception for certain townships, with a population greater than 15,000, having used township tax increment financing (TIF) for real property in the township according to the most recent federal decennial census. These townships may pay proceeds from the sale of a permanent improvement of

closed as provided by Ohio Rev. Code § 5155.31, the board of county commissioners may sell or lease any part of the county home farm, and all receipts from such sales or leases shall be paid to the county treasurer and credited to the general county fund, and shall be subject to appropriation for such purposes as the board decides [Ohio Rev. Code § 5155.33].

- Proceeds from the sale of a public utility are to be paid into the sinking fund or bond retirement fund to the extent necessary to provide for the retirement of the outstanding indebtedness incurred in the construction or acquisition of such utility [Ohio Rev. Code § 5705.10(F)].
- Proceeds from the sale of property other than a permanent improvement are to be paid into the fund from which such property was acquired or is maintained, or if there is no such fund, into the general fund [Ohio Rev. Code § 5705.10(F)].
- Monies collected under Ohio Rev. Code § 4501.04, 5735.23, and 5735.27 must be deposited into a special fund for the purpose of street construction and maintenance. This includes gas tax and license taxes distributed through the county. [Ohio Rev. Code § 5735.28] However, if the municipal corporation sits on the line of the state highway system as designated by the director of transportation as an extension or continuance of the state highway then 7.5% of the monies will be posted to a state highway fund.

Note: Also, the \$5 or \$10 license taxes that can be levied by a municipality under Ohio Rev. Code Chapter 4504 can be receipted directly into a Permissive MVL fund.

- Money paid into a fund must be used only for the purposes for which such fund has been established. As a result, a negative fund cash balance¹⁷ indicates that money from one fund was used to cover the expenses of another fund [Ohio Rev. Code § 5705.10(I)]. However, Ohio Rev. Code § 3315.20 provides an allowable exception for school districts. A school district may have a deficit in any special fund (see step 1-4 for a listing of possible “special” funds) of the school district, but only if all of the following conditions are satisfied:
 - The school district has a request for payment pending with the state sufficient to cover the amount of the deficit [Ohio Rev. Code § 3315.20(A)]
 - There is a reasonable likelihood that the payment will be made [Ohio Rev. Code § 3315.20(A)]
 - The unspent and unencumbered balance in the school district’s general fund is greater than the aggregate of deficit amounts in all of the school district’s special funds. [Ohio Rev. Code § 3315.20(B)]

the township into its general fund if both of the following conditions are satisfied: (see bullets below or on next page)

- The Township fiscal officer determines that all foreseeable “public infrastructure improvements” to be made in the township in the 10 years immediately following the date the permanent improvement is sold will have been financed through township TIF on or before the date of the sale. Written certification of this determination must be made part of the township’s records.
- The permanent improvement being sold was financed entirely from moneys in the township’s general fund.

¹⁷ There is no legal authority addressing whether encumbrances are to be included when analyzing fund balances. Ohio Rev. Code § 5705.10 does not explicitly prohibit an entity from having a negative fund balance. Instead, we cite to Ohio Rev. Code § 5705.10 because restricted funds were used for other purposes. Therefore, do not include encumbrances when analyzing compliance with Ohio Rev. Code § 5705.10.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

1. Trace a representative number of receipts from tax levies, bond issues, and sales of permanent improvements, to the funds. Note: Because recording receipts to an incorrect opinion unit is a misstatement, auditors should test these transactions to the extent required to reasonably assure there was no material misstatement. Also, auditors should consider reporting noncompliance for misposting to incorrect funds (rather than opinion units) as described in the *Finding for Adjustment* guidance in the *Ohio Compliance Supplement Implementation Guide*.
2. Trace selected estate tax proceeds to the credit of the municipality’s or township’s general fund. If in default on bonds or notes, municipalities should apportion 50% of the net proceeds each to the debt service and general funds.
3. Trace significant interest earned on bond proceeds to the credit of (1) a fund used for purposes for which the debt was authorized, or (2) the general fund. [Ohio Rev. Code § 5705.10(E)] (Note: Proceeds exclude accrued interest and premiums, which the entity must credit to the sinking or bond retirement fund. Refer to Bulletin 2014-001) Also note that this interest may be subject to Federal arbitrage regulations—AOS staff should refer to the arbitrage procedures in the specimen debt audit program.
4. Inspect accounting ledgers or month end reports as of fiscal year end and for selected periods during the year. Determine whether significant negative fund balances existed.

Note: When a fund ends the year with negative cash, it is inappropriate to present an “advance” on the budgetary statement to eliminate the negative cash fund balance. Even though, in substance, the government has made an advance, it is not acceptable to “hide” noncompliance by creating an advance not properly authorized by the government. However, a government should post an

interfund receivable and payable to eliminate the negative cash balance on the GAAP financial statements. The government should select the fund to report the receivable.

5. If negative fund balances are identified for a school district, determine whether the school district met the allowable exception conditions above by:
 - *Inspecting* the school district's Project Cash Request (PCR) forms. In most cases, these forms will be available for viewing online in ODE's Comprehensive Continuous Improvement Plan (CCIP) application at <https://ccip.ode.state.oh.us/default.aspx?ccipSessionKey=634588550645675891>.
 - Computing the unspent and unencumbered balance in the school district's general fund and vouching whether it is greater than the aggregate of deficit amounts in all of the school district's special funds.
6. If a school district disposed of real property, determine whether the school district used the proceeds received from the sale to retire any debt that was incurred by the district with respect to that real property.

Note: The proceeds received from the sale shall be used to retire any debt that was incurred by the district with respect to that real property. Proceeds in excess of the funds necessary to retire that debt may be paid into the school district's capital and maintenance fund and used only to pay for the costs of nonoperating capital expenses related to technology infrastructure and equipment to be used for instruction and assessment fund, or payment into a special fund for construction or acquisition of permanent improvements.

7. If a park district enters into an agreement for the sale or lease of mineral rights regarding a park within the district, confirm that the royalties or moneys from that sale or lease were deposited into a special fund created by the board of park commissioners.

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

1-6 Compliance Requirements: Ohio Rev. Code § 5705.05-.06, 5705.14, 5705.15, and 5705.16 Transfer of funds (*Refer to Appendix A-1 in the OCS Implementation Guide for a more detailed discussion on what constitutes a “transfer” under Ohio Rev. Code § 5705.14 - .16.*)

Summary of Requirements: No transfer can be made from one fund of a subdivision to any other fund, except as follows:¹⁸

- The unexpended balance in a bond fund [i.e. a capital project fund financed with bond proceeds] that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund from which such bonds are payable. [Ohio Rev. Code § 5705.14(A)]
- The unexpended balance in any specific permanent improvement fund, other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvement, shall be transferred to the sinking fund or bond retirement fund of the subdivision. However, if such money is not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of permanent improvements, or, with the approval of the court of common pleas of the county in which such subdivision is located, to the general fund of the subdivision. [Ohio Rev. Code § 5705.14(B)]
- Except as provided below, the unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund. However, if the transfer is impossible by reason of the nonexistence of the fund to receive the transfer, the unexpended balance may be transferred to any other fund of the subdivision with the approval of the court of common pleas of the county in which such division is located. [Ohio Rev. Code § 5705.14(C)(1)]
 - Money in a bond fund or bond retirement fund of a city, local, exempted village, cooperative education, or joint vocational school district may be transferred to a specific permanent improvement fund provided that the county budget commission of the county in which the school district is located approves the transfer upon its determination that the money transferred will not be required to meet the obligations payable from the bond fund or bond retirement fund. In arriving at such a determination, the county budget commission shall consider the balance of the bond fund or bond retirement fund, the outstanding obligations payable from the fund, and the sources and timing of the fund's revenue. [Ohio Rev. Code § 5705.14(C)(2)]
- The unexpended balance in any special fund, other than an improvement fund, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund. [Ohio Rev. Code § 5705.14(D)]
- Money may be transferred from the general fund to any other fund of the subdivision [Ohio Rev. Code § 5705.14(E)]. Note: 1989 Op. Atty. Gen. No. 89-075 requires a governing board resolution passed by a simple majority of the board members to transfer funds.¹⁹

¹⁸ GASB 2300.127(and therefore OCBOA presentations) requires certain disclosures regarding the amounts and purposes of transfers in the notes to the financial statements.

- Counties are precluded from transferring general levy revenue for current expenses to other county funds for the construction, reconstruction, resurfacing, and repair of roads and bridges. [Ohio Rev. Code §5705.05 & .06]. Other entities (except counties) may transfer general levy revenue for current expenses to Road and Bridge Funds via a resolution passed by a simple majority of the governing authority [Ohio Rev. Code §5705.14(E)].
- Moneys retained by a county in accordance with Ohio Rev. Code § 4501.04 (auto registration distribution fund), or in accordance with Ohio Rev. Code § 5735.27 (gasoline excise tax fund), may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable. [Ohio Rev. Code § 5705.14(F)]
- Moneys retained or received by a municipal corporation under Ohio Rev. Code § 4501.04 (motor vehicle license tax), or division (A) (1) or (2) of Ohio Rev. Code § 5735.27 (motor vehicle fuel excise taxes), may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable. [Ohio Rev. Code § 5705.14(G)]
- After payment of the expenses of conducting and managing the water works, any surplus of a municipal corporation's water fund may be applied to the repairs, enlargement, or extension of the works or of the reservoirs, the payment of the interest of any loan made for their construction, or for the creation of a sinking fund for the liquidation of the debt. In those municipal corporations in which water works and sewerage systems are conducted as a single unit, under one operating management, a sum not to exceed ten per cent of the gross revenue of the water works for the preceding year may be taken from any surplus remaining after all of the preceding purposes have been cared for and may be used for the payment of the cost of maintenance, operation, and repair of the sewerage system and sewage pumping, treatment, and disposal works and for the enlargement or replacement thereof. Each year a sum equal to five per cent of the gross revenue of the preceding year shall be first retained from paid surplus as a reserve for waterworks purposes. The amount authorized to be levied and assessed for waterworks purposes shall be applied by the legislative authority to the creation of the sinking fund for payment of any indebtedness incurred for the construction and extension of water works and for no other purposes; provided, where such municipal corporation does not operate or maintain a water works or a sewage pumping, treatment, and disposal works, any or all such surplus may be transferred to the general fund of the municipal corporation in the manner provided for in sections 5705.15 and 5705.16 of the Revised Code²⁰. [Ohio Rev. Code § 743.05]
- Money may be transferred from the County Developmental Disabilities general fund to the County Developmental Disabilities capital fund established under Ohio Rev. Code § 5705.091, or to any other fund created for purposes of the County Board of Developmental Disabilities so long as it is

¹⁹ AOS interprets this requirement to mean that a governing board may approve interfund transfers from the general fund to other funds of the subdivision within its annual appropriation measure provided that the measure was passed by a simple majority of the board members.

²⁰ In other words, if there is an excess in the water works fund and the municipality has its own water works operation, the excess can only be used for expenses related to the operation, maintenance, or expansion of the waterworks. Not all municipalities have their own waterworks system. Therefore, some municipalities may provide water to their residents by obtaining the water from another source. Where this is the case, if (after satisfying expenses related to furnishing water) there is an excess, the municipality may transfer the excess to its general fund.

spent for the particular purpose of the transfer. An unexpended balance in an account may be transferred back to the County Developmental Disabilities general fund. Transfers shall be done by resolution of the Board of County Commissioners. [Ohio Rev. Code §5705.14(H)]

- Money may be transferred from the public assistance fund established under section 5101.161 of the Revised Code to either of the following funds, so long as the money to be transferred from the public assistance fund may be spent for the purposes for which money in the receiving fund may be used [Ohio Rev. Code §5705.14(I)]:

- (1) The children services fund established under Ohio Rev. Code § 5101.144;
- (2) The child support enforcement administrative fund established, as authorized under rules adopted by the director of job and family services, in the county treasury for use by any county family services agency.

- Money may be transferred among various funds and accounts from which a loss was directly attributable to allocate insurance and self insurance program costs, including deductibles, under Ohio Rev. Code § 2744.08 and 2744.082. If a subdivision or joint self-insurance pool makes such an allocation or requires the payment of deductibles from specific funds or accounts, the subdivision's fiscal officer, pursuant to an ordinance or resolution of the subdivision's legislative authority, must transfer amounts equal to those costs or deductibles from the funds or accounts to the subdivision's general fund if both of the following apply:

- (1) the subdivision requests payment from the employee responsible for the funds or accounts for those costs or deductibles [Ohio Rev. Code § 2744.082(A)(1)], and
- (2) the employee receiving the request fails to remit payment within 45 days after the date the request is received [Ohio Rev. Code § 2744.082(A)(2)].

- Except in the case of transfers from the general fund, transfers can be made only by resolution of the taxing authority passed with the affirmative vote of two thirds of the members. Transfers from the general fund require a resolution passed by a simple majority of the board members (i.e., a two thirds vote is not required for general fund transfers though a resolution passed by a simple majority is required. A simple majority constitutes a quorum of greater than 50% of the members.) [Ohio Rev. Code § 5705.14 & .16]

Per Ohio Rev. Code § 5705.15 & .16: In addition to the transfers listed above, which Ohio Rev. Code § 5705.14 authorizes, the taxing authority of any political subdivision, with the approval of the Court of Common Pleas²¹, may transfer from one fund to another any public funds under its supervision, *except* the proceeds or balances of:

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

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
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²¹ Under Ohio Rev. Code § 5705.16, approval of the Tax Commissioner is also required in certain circumstances.

<ul style="list-style-type: none"> • Policies and Procedures Manuals • Periodic Reviews/Comparisons of Budgeted and Actual Transfers • Independent Inspection/Comparison of Transfers to Source Documents • Knowledge and Training of personnel • Presence of Effective Accounting System • Tickler Files/Checklists • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures - Compliance (Substantive) Tests:

Note: Except for “prior approval by the governing authority”, transfers fail the “existence” assertion unless they satisfy the aforementioned legal requirements. Therefore, noncompliant transfers (e.g., material transfers from the self insurance fund that are unsupported or transfers that permit spending the transferred amount in violation of its restricted purpose) represent misstatements and may require findings for adjustment. See Appendix A-1 in the *OCS Implementation Guide* for more information on determining allowability for Transfers and Advances. Auditors should also refer to the finding for adjustment guidance in the Ohio Compliance Supplement *Implementation Guide*.

Inspect documents authorizing transfers during the audit period and determine that transfers involving balances described below met the requirements above:

- Unexpended bond balance;
- Permanent improvement balance;
- Bond retirement;
- Special fund;
- Auto registration;
- Resolution;
- Municipal corporation;
- Public assistance;
- Developmental disabilities.

Determine if any material transfers were made from the proceeds or balances of:

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

- the proceeds or balances of any license fees imposed by law for a specified purpose.

Determine if selected transfers were authorized by vote of the governing board as described above.

If applicable, determine if selected transfers were authorized by the County Budget Commission, Court of Common Pleas, or Tax Commissioner as described above.

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

1-7 Compliance Requirements: Though no statutory provisions directly address inter-fund *advances*, the following requirements are in part derived from Ohio Rev. Code §: 5705.10 (restriction on the purpose for which funds may be used); 5705.14, 5705.15, and 5705.16 (transfer of funds); 5705.39 (appropriations limited to estimated resources); 5705.41 (restriction on appropriation/ expenditure of money); and 5705.36 (certification of available revenue). Auditor of State Bulletin 97-003 sets forth the requirements for inter-fund advances and provides additional guidance for recording such transactions.

Note: This section applies when a subdivision purchases its own debt with its debt service fund cash, etc. pursuant to Ohio Rev. Code § 133.29 and accounts for it as *advances* and *interfund activity* in its financial statements. However, refer to OCS step 1-17 if the subdivision accounts for a purchase of its own debt as an *investment* and *debt*. See AOS Bulletin 97-001, Ohio Rev. Code § 133.03 and 133.29, and Appendix A-1 of the *OCS Implementation Guide* for additional guidance on legal requirements applicable to intra-entirety borrowing. Ohio Compliance Supplement Chapter 1, step 17 describes the legal compliance requirements for the issuance and retirement of manuscript debt.

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

- Any advance must be clearly labeled as such, and must be distinguished from a transfer. Transfers are intended to reallocate money permanently from one fund to another and may be made only as authorized in Ohio Rev. Code § 5705.14 to 5705.16. Advances, on the other hand, *temporarily* reallocate cash from one fund to another and involve an expectation of repayment;
- In order to advance cash from one fund to another, there must be statutory authority to use the money in the fund advancing the cash (the "creditor" fund) for the same purpose for which the fund receiving the cash (the "debtor" fund) was established;
- The 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; and
- Advances must be approved by a formal resolution of the taxing authority of the subdivision which must include:
 - A specific statement that the transaction is an advance of cash, and
 - An indication of the money (fund) from which it is expected that repayment will be made.
- When a fund ends the year with negative cash, it is not appropriate to present an *advance* on the budgetary statement to eliminate the negative cash fund balance. Even though, in substance, the government has made an advance, it is not acceptable to "hide" noncompliance by creating an advance not properly authorized by the government. However, the government should post an interfund receivable and payable to eliminate the negative cash balance on the GAAP financial statements. The government should select the fund to report the receivable.

Other Budgetary Considerations

The advances-out (initial loan and repayment) in the creditor (loaning) and debtor (borrowing) funds do not require appropriation as advances represent temporary allocations of resources. However, an amended official certificate of estimated resources should be obtained to reflect the reduced fund balance in the

creditor fund and the increased fund balance in the debtor fund. Creditor fund appropriations must be evaluated based on the reduced estimated resources, and appropriation reductions may be required. Prior to obligation of advanced funds, the debtor fund must have sufficient appropriations to cover the anticipated expenditures.

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

The official certificate of estimated resources must be prepared and provided in cases in which the Budget Commission waives the requirement that the taxing authority of a subdivision adopt a tax budget. Ohio Rev. Code §5705.281(A) indicates the county budget commission by an affirmative vote of a majority of the commission, including an affirmative vote by the county auditor, may waive the requirement that the taxing authority of a subdivision or other taxing unit adopt a tax, but the taxing authority is still required to provide information to the commission in order for it to perform its duties, including dividing the rates of each of the subdivision’s or taxing unit’s tax levies. In addition, Ohio Rev. Code §5705.34 requires the budget commission to certify its action to the taxing authority. Ohio Rev. Code §5705.35(A) makes reference to “The certification of the budget commission to the taxing authority of each subdivision or taxing unit as set forth in section 5705.34 of the Revised Code...”, and indicates that “There shall be attached to the certification a summary, which shall be known as the ‘official certificate of estimated resources’, that shall state the total estimated resources of each fund of the subdivision that are available for appropriation in the fiscal year...”.

Conversion to a Transfer

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

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

Accounting for Manuscript Debt as an Advance and Interfund Activity

Before a taxing authority sells any securities of the subdivision to others, the taxing authority may offer the securities at their purchase price and accrued interest to the officer or officers who have charge of the bond retirement fund of the subdivision, or in the case of a municipal corporation, to the treasury investment board for investment under §731.56 of the Ohio Rev. Code, or an officer or similar treasury investment board having the authority under a charter. (Ohio Rev. Code §133.29(A)). This type of debt is often referred to as “manuscript debt”. See the Manuscript Debt section in chapter 1 for more information.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

If advance transactions occurred, review authorizing legislation and accounting records. Determine whether the advance transactions were in amounts and between accounting funds approved in the authorizing legislation.

Based on knowledge of the entity’s operations and review of levy legislation or other appropriate documents, determine whether the creditor fund’s purpose was reasonably consistent with the debtor fund’s purpose.

Determine whether prior period advances are outstanding. If advances have not been repaid within a reasonable period or within the period specified (if any) in the authorizing legislation, determine through inquiry of appropriate client officials when the advance will be repaid.

If the client no longer intends for the advance to be repaid or repayment is unlikely, ~~recommend that issue a finding for adjustment if the amounts are material and the client does not~~ take appropriate steps to convert the advance to a transfer following the above procedures.

If advances have been converted to transfers, determine whether the transfer requirements summarized in Ohio Compliance Supplement Section 1-6 have been complied with retroactively.

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

1-8 Compliance Requirement:

- Ohio Rev. Code § 5705.13(A) - Reserve balance accounts and funds;
- Ohio Rev. Code § 5705.13(B) – A special revenue fund may be established to accumulate cash for severance payments or salaries when the number of pay periods exceeds the usual and customary number for a year;
- Ohio Rev. Code § 5705.13(C) – capital projects fund(s) may be established to accumulate resources to acquire, construct, or improve fixed assets.

Summary of Requirements:

- Ohio Rev. Code § 5705.13(A) allows a taxing authority of a subdivision to establish, by resolution, a reserve balance account²² for each of the three following purposes:
1. Budget stabilization: may be created in the general fund or in any special fund used for operating purposes. The amount reserved in the account in any fiscal year must not exceed 5% of the fund's revenue for the preceding fiscal year²³. The reserve balance is excluded from the unencumbered balance when certifying available balances at year-end. The reserve for budget stabilization may be reduced or eliminated at any time by the taxing authority.
 2. Self-insurance program: may be created in the general fund or in the internal service fund established to account for the operation of the program. The amount to be reserved must be based on actuarial principles and the taxing authority may rescind the reserve balance account at any time.
 3. Retrospective Ratings Plan for Workers' Compensation²⁴: may be created in the general fund or in the internal service fund established to account for the program. The amount to be reserved must be based on actuarial principles and the taxing authority may rescind the reserve balance account at any time.
1. Ohio Rev. Code § 5705.13(B) allows a taxing authority to establish a special revenue fund to accumulate cash to pay accumulated leave, or for paying salaries when the number of pay periods exceeds the usual and customary number for a year. This leave includes payments for accumulated sick leave and vacation leave, or for payments in lieu of taking compensatory time off, upon the termination of employment or retirement. Money may be transferred to this fund from any fund from which the termination or salary payments could lawfully be made. The reserve must be established by

²² Ohio Rev. Code §5705.13 refers to these accounts as “reserve” accounts. However, for the GASB 54 financial reporting AOS Bulletin 2011-004 describes, the criterion for using the budget stabilization is not specific enough to meet the *committed* criteria and it does not meet the *restricted* criteria as the budget stabilization is not mandated by State statute. Therefore, a budget stabilization/reserve account should be reported as *unassigned* in the general fund. While statute also gives the authority to have stabilization reserve accounts in other operating funds, the fund balance is reported as *restricted, committed, or assigned* and the reserve account does not change the fund balance classification. Entity wide statements should report these as part of *unrestricted* net assets.

²³ In the case of a reserve balance account of a county or of a township, the budget stabilization amount can be the greater of 5% of the fund's revenues from the preceding fiscal year or one-sixth of the expenditures during the preceding fiscal year from the fund in which the account is established. [Ohio Rev. Code § 5705.13 (A) (3)]

²⁴ Various plans to provide for the payment of claims, assessments, and deductibles are allowed. Plans allowed are: payments under a self-insurance program, individual retrospective ratings plan, group rating plan, group retrospective rating plan, medical only program, deductible plan, or large deductible plan for workers' compensation.

resolution or ordinance and the taxing authority may rescind the fund at any time with the accumulated resources being returned to the fund from which they came. Amounts accumulated in this fund should be reasonable based on the taxing authority's estimated liability for benefits.

2. Ohio Rev. Code § 5705.13(C) provides that a taxing authority may create, by resolution, one or more capital projects funds²⁵ to accumulate resources for the acquisition, construction, or improvement of fixed assets, including motor vehicles. Each fund must be created by ordinance or resolution. The resolution or ordinance must identify the asset(s) to be acquired, the amount needed to be accumulated, the period over which the amount will be accumulated (with a limit of ten years from the date of the resolution or ordinance), and the source of the resources. Despite Ohio Rev. Code §5705.14 through .16, money may be transferred to the capital projects fund from any other fund that could acquire, construct or improve the fixed assets. If a contract for the fixed asset(s) has not been entered into before the ten-year period expires, the money is returned to the fund from which it was transferred or that was originally intended to receive it. The taxing authority may rescind a capital projects fund at any time with the accumulated resources being returned to the fund from which they came. Auditor of State approval is not required for this transfer.
- Ohio Rev. Code § 5705.132 permits *townships* to establish by resolution reserve balance accounts in addition to those described above to accumulate currently available resources for any purpose for which the board of township trustees may lawfully expend township money.²⁶ The resolution must state the:
- Specific purpose for which a reserve balance account is established,
 - Fund within which it is established,
 - Fund or account from which money will be transferred to it,
 - Number of years it will exist [there is a five year cap on how long the account may be in existence]
 - Maximum total amount of money that may be credited to it during its existence; and
 - Maximum amount of money to be credited to it each fiscal year it exists

Reserve balance accounts established under this authority may exist for not more than five years beginning with the year in which money is first set aside. In addition, money in such an account can be expended only for the purpose for which the account is established.

Money may be transferred to these new reserve balance accounts from another township fund or account only if money in that fund or account may lawfully be expended for the purpose for which the new reserve balance account is created. Townships may create more than one reserve balance account under this section. However, the total amount of money credited to *all* of the reserve balance accounts established under this section cannot exceed, **at any time in any fiscal year**, 5% of the total of the township's revenue from all sources for the preceding fiscal year, plus any unencumbered balances carried over to the current fiscal year from the preceding fiscal year. There are three

²⁵ Similar to the preceding note, governments should report these amounts as *committed, assigned, or restricted fund* balance as appropriate under the circumstances described in GASB 54 in governmental fund statements. Entity wide statements should report this equity as part of *unrestricted net assets*, because the restrictions are not externally imposed.

²⁶ Similar to reserve balance accounts created under existing law, reserves created under this section are not considered as an unencumbered balance or revenue of the township for purposes of annual budget reviews by the county budget commission. They are also not considered as an unencumbered balance or revenue for purposes of apportioning the county's undivided local government fund and the undivided local government revenue assistance fund.

important aspects of this restriction. First, be aware that it is based on revenues only. Other financing sources such as debt proceeds or transfers will not count toward the calculation of the limitation.²⁷ Second, recognize that this language has the effect of allowing the same dollars to be counted twice in calculating the limitations, first when they were received in the prior year and second to the extent they are carried over as unencumbered into the current year. Finally, notice that the amount of the limitation changes each year because it is based on the preceding year’s revenues.

If a township does not expect to spend the money set-aside in a reserve balance account in the upcoming year, the money in the reserve balance account need not be included in the certificate of year-end balances filed with the budget commission at the beginning of the year. If the township plans to spend the money that has been set aside, the township should include the money in the certificate of year-end balances. The money will then be included in the amended certificate of estimated resources and may be appropriated and spent during the year. Appropriations should be made to an account that reflects the purpose of the reserve. Appropriations should not be made to, nor expenditures made from, a reserve balance account. For example, assume in 2006 a township created a reserve balance account not to exceed \$40,000 in the motor vehicle license tax fund to purchase a new mower. \$10,000 is set aside each year from 2006 through 2009. In 2010, the \$40,000 is included in the certificate of year-end balances and appears as part of the amended certificate. The money is appropriated in the capital outlay account in the motor vehicle license tax fund and the new mower is purchased.²⁸

Upon the expiration or rescission of a reserve balance account created under this section, any unexpended balance in the reserve account must be transferred to the fund or account from which money in the account was originally transferred. If money was transferred from multiple funds or accounts, a pro rata share of the unexpended balance must be transferred to each of them proportionate to the amount originally transferred from that fund or account.

Refer to AOS Bulletin 2007-002 for additional information regarding the authority for townships to create reserve balance accounts.

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

²⁷ Appendix IV-5 of the March 2013~~2014~~ Ohio Township Manual~~Handbook~~ lists all *Other Financing Sources*.

²⁸ For the purpose of setting aside money for the purchase of a capital asset, it may be easier and more convenient to create a separate capital projects fund under the provisions of Ohio Rev. Code § 5705.13.

Suggested Audit Procedures - Compliance (Substantive) Tests:

If reserve balance accounts have been established:

- Determine through vouching, review of minutes, and inspection of accounting ledgers and authorizing legislation, whether reserve accounts were only established in the general fund, special fund used for operating purposes or appropriate internal service fund and for permitted purposes (budget stabilization, self-insurance program, or retrospective ratings program for worker's compensation).
- Recalculate reserve percentages and inspect worksheets and accounting ledgers to determine whether the amount reserved exceeded the 5 % cap (budget stabilization account). In the case of Townships or Counties see footnote 23.
- For self-insurance and worker's compensation reserve accounts, compare amounts reserved to estimates received from the entity's actuary.

If a "severance payout reserve" or "capital improvement reserve" fund has been established:

- Review minutes, ordinances and resolutions to determine whether the fund has been established by resolution or ordinance.
- If a capital improvement reserve fund has been established, review the authorizing legislation to determine whether the assets; amount required; accumulation period (not to exceed ten years); and source of funding have been identified.
- Select a representative number of disbursement transactions from the fund. Through vouching, determine whether the transactions were only for related activities as indicated above, and in accordance with the purpose stated in the authorizing legislation.
- Trace a representative number of transfers to the reserve fund and determine whether the transfers were from funds permitted to make the disbursements for which the reserve fund was established.
- Determine through inspection of worksheets, ledgers and other such documents, whether records reasonably provide for the return of accumulated resources, to the fund from which they were originally transferred or the fund intended to receive them (If records do not reasonably provide for the proper return of resources, this situation would generally result in a recommendation; a noncompliance citation should not be made).

If the reserve fund was rescinded or if the ten-year period has elapsed prior to entering into a contract (capital improvement reserve fund), determine through inspection of worksheets and accounting ledgers whether the accumulated resources were returned to the fund from which they were originally transferred or the fund intended to receive them.

If a township has established an additional reserve balance account(s), determine whether the necessary resolution, stating the purpose of the reserve account, has been adopted by the board of trustees.

- Review monies transferred to the new township reserve balance accounts from other township funds or accounts and determine whether those monies may lawfully be expended for the purpose for which the new reserve balance account was created.

- Determine whether the total amount of money credited to *all* of the reserve balance accounts established under Ohio Rev. Code § 5705.132 exceeded 5% of the total of the township's revenue from all sources for the preceding fiscal year and any unencumbered balances carried over to the current fiscal year from the preceding fiscal year.
- ~~Scan expenditures in the additional reserve accounts and~~ Determine whether reserve accounts were expended only used for the purpose for which the account(s) was established.
- Determine that none of the additional reserve balance accounts have existed for more than five years.
- Upon the expiration or rescission of a reserve balance account created under Ohio Rev. Code § 5705.132, determine whether any remaining unexpended balance in the reserve account was transferred to the fund or account from which money in the account was originally transferred. If not, consider a finding for adjustment.

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

BOARD OF EDUCATION (SCHOOLS)

1-10 Compliance Requirement: Ohio Rev. Code § 3313.33 - **Board of Education** (schools) conveyances and contracts.

Summary of Requirement: The board president and treasurer shall execute any “Conveyances.” No contract is binding unless authorized at a regular or special board meeting. A “conveyance” is not a donation; it is a transfer *between two entities* with adequate consideration other than money (Ohio Rev. Code § 721.02).

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Trace board approval from the minutes to the contracts or from the contracts to the minutes.

Inspect “conveyances” for board president and treasurer signatures.

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

1-11 Compliance Requirement: Ohio Rev. Code Chapter 3318 - **School Districts** participating in classroom facilities assistance programs.

Summary of the Program

Background:

Several programs provide financial assistance to construct or repair classroom facilities. The School Facilities Commission (Commission) administers these programs. The most common programs are the Classroom Facilities Assistance Program (CFAP), Expedited Local Partnership Program, and Urban Initiative Program (i.e., applies to the following six city school districts: Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo). Certain classroom assistance programs established by Ohio Rev. Code Chapter 3318 follow the basic guidelines of the CFAP.

Locally Funded Initiatives:

The Commission informed us that a school district board may elect to add to the scope of any project and separately fund a scope of work (“local initiative”), which involves improving all or part of a project the Commission funds. The school district board may request the Commission to approve the incorporation of design and construction of the local initiative into the overall project. Whenever a local initiative is interconnected with a project the commission funds, the district and the commission will execute a memorandum of understanding to specify the additional cost of the local initiative and the terms and conditions for accounting for the cost. *The district must account for the local initiative in a separate fund, NOT the project construction fund (USAS fund 010).*

The CFAP and related programs are discussed below.

CFAP Basics:

CFAP participation is based in part on the district’s relative wealth, the Commission’s determination of the district’s facility needs, and the time elapsed since prior CFAP participation.

Project commencement is contingent upon the district obtaining:

- The district’s share of project costs, funded by an additional bond levy, and /or certain local resources available for such purpose [Ohio Rev. Code §3318.084], or
- The proceeds of a property tax/income tax levy, or a combination of both [Ohio Rev. Code §3318.052], and
- The Board must levy an additional maintenance tax²⁹ of at least one-half mill [Ohio Rev. Code §3318.05 (B), 3318.06 (A)(2)(a) and (A)(3), and 3318.17], or

²⁹ The original regulations required a ½ mill levy, all of which was remitted to the State to repay project funding received. Later regulations still required the levy (or other funding), but provided that all or a portion would be retained by the district, to be used for maintenance of project facilities. All such funding is referred to as “maintenance funding” in this OCS Section. Some districts have entered into supplemental agreements which subject the district to the amended regulations.

- the Board may elect, to satisfy its local maintenance requirement by earmarking from the proceeds of an existing permanent improvement tax levied under Ohio Rev. Code §5705.21, an amount equivalent to the amount of the additional tax described above or the District may elect to satisfy its local maintenance requirement by a combination of the half mill levy and the alternative funding source, or the district may elect to use a locally donated contribution under section 3318.084 of the Rev. Code. [Ohio Rev. Code § 3318.05 (B), and 3318.06 (A)(2)(b)]
- A district ~~commencing its project on or after the act's effective date~~ may deposit into its maintenance fund, annually for 23 years, an amount from other district resources equal to 1/2 mill of the district's tax valuation³⁰, instead of levying the maintenance tax³¹. The district's board must pass a resolution petitioning the Ohio School Facilities Commission to approve the arrangement. (Ohio Rev. Code § 3318.05, 3318.051, and 3318.084)
 - The district treasurer must annually certify to the Commission and the Auditor of State that the amount required for the year has been transferred³² into the maintenance fund.

In order to satisfy the transfer certification requirement to the Auditor of State, districts can electronically submit the copy of the Auditor of State's certification to OSFC/OFCC@OhioAuditor.gov or carbon copy the Auditor of State regional offices on their certification to the Commission. See the Auditor of State website www.ohioauditor.gov (Contact Us/Locations and Contacts) for regional office contact information.

- The Auditor of State must "verify" the transfer as part of any audit of the district. If the Auditor of State finds that less than the required amount has been deposited, the Auditor must notify the district board in writing and require the board to deposit the necessary money within 90 days after the notice. If the district board fails to demonstrate to the Auditor's satisfaction that it has made the required deposit, the Auditor must notify the Ohio Department of Education. Upon that notice, the Ohio Department of Education must withhold 10% of the district's state operating funds for the current fiscal year, until the Auditor notifies the Ohio Department of Education that

³⁰ Joint vocational school districts participating in a state facilities program, annually for 23 years, must deposit into a maintenance account an amount equal to 1.5% of the current insurance value of the acquired facilities (Ohio Rev. Code § 3318.43).

³¹ If a district board determines that it can no longer continue making the annual transfers, the act allows a district board to rescind its decision, but only if the district's voters approve the levy of a maintenance tax. The levy must be in effect for the remainder of the 23-year maintenance period (23 years minus the number of years that the district made transfers) and must be for not less than ½ mill for each dollar of district valuation. The act prescribes the ballot language to be used. A district electing to make the transfers authorized by the act is not relieved from its obligation to make annual deposits into its general "capital and maintenance fund," which applies to all districts under continuing law.

³² Districts electing to make the transfers, instead of levying the maintenance tax, may not receive the new state maintenance equalization payments. (*Beginning in fiscal year 2007, the Ohio Department of Education is required to pay an equalized subsidy to city, exempted village, and local school districts participating in state-assisted facilities programs and have tax valuations per pupil below the statewide average. The subsidy equalizes to the statewide average the per pupil amount each eligible district raises from its 1/2-mill maintenance levy.*) (Ohio Rev. Code § 3318.18)

the Auditor is satisfied that the board has made the required transfer (Ohio Rev. Code §3318.051(B)).

- NOTE: Auditors should consult with the Auditor of State’s Legal Division if noncompliance is identified. The Auditor of State Legal Division will prepare the written notification to the school district board and to the Ohio Department of Education, if necessary. IPA’s should notify the Auditor of State’s Center for Audit Excellence if noncompliance is identified. The Auditor of State Center for Audit Excellence will then consult with the Auditor of State Legal Division as appropriate.

Districts are to establish a project construction fund [Ohio Rev. Code § 3318.08] to account for project funding and expenditures (USAS fund 010),³³ and a project maintenance fund [Ohio Rev. Code § 3318.05] to account for maintenance funding and expenditures (USAS fund 034). ***Districts should not account for local funding initiatives in these funds. Rather, a separate fund should be established.***

The maintenance fund can only be used to maintain and repair completed facilities as identified in the approved maintenance plan, including preventative maintenance, periodic repairs, and the replacement of facility components. Routine janitorial and utility costs, equipment supplies and personnel costs associated with the day-to-day housekeeping and site upkeep are not allowable expenditures. No moneys other than costs associated with the development of the preventive maintenance plan may be expended out of fund 034 prior to the approval of the maintenance plan by the Commission. The construction manager is required to initiate the process of developing the plan at least six months prior to the completion of any facility for occupancy. [Legal criteria: The maintenance plan approved by the Commission, as evidenced by a signed Commission resolution]

CFAP Written Agreement [Ohio Rev. Code §3318.08]:

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

- Sale and issuance of bonds or bond anticipation notes for all or a portion of the district’s share of project costs (to be deposited into the district’s project construction fund (USAS 010), and the transfer of approved local resources (if any) to the project construction fund. (***Note: the district’s local share of the project costs is not the same as a “locally funded initiative”. Locally funded initiatives should be accounted for in separate funds, not Fund 010.***)
- The funding source for project maintenance and the conditions, if any, under which a portion of maintenance funding will be paid to the State. Repaying the State is no longer required. As noted above, the money a one-half mill maintenance levy or an alternative funding source generates must be deposited into fund 034 and can only be used to maintain and repair facilities, including preventative maintenance, periodic repairs, and replacing facility components.

³³ Auditor of State Bulletins 99-004 and 2001-007 include USAS accounting and legal guidance for the CFAP program. The accounting guidance still applies, but auditors should not rely on the legal guidance of those bulletins because some of it is outdated.

- Authorization to advertise for, receive, and award construction bids for the project, subject to Commission approval.
- Disbursement of moneys from the district's project construction fund after receiving Commission approval. Payments from the construction fund are restricted to: 1) professional design and administration services, 2) payments to contractors who have performed work, 3) purchases related to the Project, and 4) any transactions authorized necessary or appropriate for establishing and administering investment accounts. Occasionally, districts will receive approval from the Commission for reimbursement of items that should have been project costs. If this is the case, the District should have an approval letter on file from the Commission that should be presented to the auditor to substantiate the expenditure. All payments from fund 010 should evidence approval by the district treasurer or another board designee and by the Commission, as delegated to the construction manager. ***Locally Funded Initiatives should not be paid from fund 010, but from another fund identified by the district.***
- The Commission will pay the construction manager from the State's share of the project. (These payments should be recorded in fund 010 as receipts of the State's share and as construction expenditures. When establishing budgets for the project, these amounts should be included in estimated receipts and appropriations.)
- Disposition of any balance left in the project construction fund after completion of the project:
 - Regarding investment earnings attributable to the school's own contributions to the project, the school should either: retain them in its project construction fund for future projects, transfer them to its project maintenance fund,³⁴ or transfer them to its permanent improvement fund. [Ohio Rev. Code § 3318.12(C)(1)]
 - The school should transfer investment earnings attributable to the state's contribution to the School Facilities Commission [Ohio Rev. Code § 3318.12(C)(2)]
 - Any other surplus remaining in the school district's project construction fund after the project's completion shall be transferred to the commission and the school district board in proportion to their respective contributions to the fund. [Ohio Rev. Code § 3318.12(C)(3)]

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

Related Programs:

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

³⁴ These monies shall be used solely for maintaining the classroom facilities included in the project.

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

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

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

Interfund Activity:

During the project

Ohio Rev. Code § 3318.12 permits a school district board, by resolution, to use all or part of the interest attributable to the district's share of moneys in the project construction fund to pay the cost of local initiatives that are not included in the state-assisted project, but that are related to it. If a district board chooses to use some or all of the interest attributable to its share of the fund for local initiatives and, later, the cost of its state-assisted project exceeds the amount in the fund, the district must re-pay all of the interest used for those initiatives before further state funds will be released for the project.

After the project is completed

Ohio Rev. Code § 3318.12(B)(2) permits a school district board at its option, by resolution, to transfer the interest attributable to its local share in the project construction fund to its permanent improvement fund (where presumably it could be spent on any permanent improvement) or to leave that interest in the project construction fund to pay the cost of future projects. A district board also may choose to transfer the interest to the district's maintenance fund. In either case, interest attributable to the state's share of the project construction fund must be returned to the state.

OSFC/OFCC Agreed-Upon Procedures (AUP) Engagements:

OSFC/OFCC conducts AUP engagements on select school districts that are in the construction phase. All school districts participating in classroom facilities programs will receive an AUP engagement at least once during a project's lifetime. The firms of Kennedy Cottrell Richards and Julian & Grube, Inc. conduct these engagements and are in good standing with the Auditor of State's Office.

The focus of the AUP engagements is accountability and compliance with the terms of the OSFC/OFCC Project Agreement (including any amendments thereto) and Ohio Rev. Code Chapter 3318. The firms test the following areas, as applicable:

- deposit of project funds (both State and Local)
- spending of project funds
- interest earnings and allocation to the appropriate funds
- escrow accounting
- the closeout process

OSFC/OFCC forwards the results of the AUP engagements to the Auditor of State, who then distributes the reports to regional chief auditors and independent public accounting firms. Pursuant to *Government Auditing Standards* paragraph 4.05, "auditors should evaluate whether the audited entity has taken appropriate corrective action to address findings and recommendations from previous engagements that

could have a material effect on the financial statements or other financial data significant to the audit objectives. When planning the audit, auditors should ask management of the audited entity to identify previous audits, attestation engagements, and other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented. Auditors should use this information in assessing risk and determining the nature, timing, and extent of current audit work, including determining the extent to which testing the implementation of the corrective actions is applicable to the current audit objectives.”

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider whether an AUP report that covered at least six months of the period under audit is available from OSFC/OFCC. If so, auditors should evaluate the results of the AUP to assess the risk of noncompliance.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Agreed-Upon Procedures:

Per GAGAS 4.05, Inquire whether OSFC/OFCC conducted an AUP engagement over the district’s construction project. If so, obtain a copy of the AUP report, place it in the permanent file, and perform the following:

- Determine what period was covered by the AUP engagement procedures.
- Determine the extent of testing performed over the district’s construction activity. Auditors *may* rely on the AUP engagement to reduce the scope and extent of the audit steps enumerated below. *However, auditors should review the reported procedures to determine whether they apply: (1) only once during a project’s lifetime, or (2) if they are ongoing and should be tested annually. For example, we would expect tests of allowability of expenditures to be tested annually during the construction phase. However, the establishment of the appropriate project funds/special cost centers would only be applicable once, generally at the onset of the project. Therefore, testing of type (1) requirements (i.e., applicable one-time only) does not need to be repeated each year. Auditors may refer to prior year testing or an existing AUP engagement, regardless of the period covered, to satisfy these requirements. However, an AUP engagement may only be used to reduce testing of the steps below for type (2) requirements (i.e., applicable on an ongoing basis*

each year) if the period covered by the AUP engagement included at least six months of the current period under audit. Auditors should carefully read the AUP procedures to ensure they obtain an appropriate understanding of the testing procedures performed when making this assessment.

- Determine whether any significant findings or recommendations requiring corrective action or follow up were included in the results of the AUP report. If so, determine whether the district has corrected the noncompliance or can document satisfactory progress towards addressing the noncompliance. Auditors should *annually* evaluate the significance of uncorrected items for inclusion in the current audit report.
 - If the school is not adhering to agreed upon timetables for corrective action, etc., auditors should consider reporting noncompliance. Noncompliance findings should include the following: (1) a reference to the existing noncompliance such as, "... in a report dated XX, AOS or an accounting firm reported noncompliance with ORC 3318.YY", and (2) a description of the status of the noncompliance as of the date of the current audit report.

Review the project agreement between the district and Commission. Considering the requirements specific to the project, perform the following procedures (document specific requirements relevant to the following tests):

Project Funding:

Scan the accounting records to determine if the proper activities are being recorded in the project activities fund (USAS 010). Determine if the District is accounting for the following four revenue streams **separately**: (1) Local Revenue, (2) Interest on Local Funds, (3) State Revenue – aka "drawdowns", and (4) Interest on State Revenue.

Determine if the District deposited the local share funds required by the Project Agreement into fund 010 for both the original contribution and any amendments.

Select contracts and related contract expenditures and determine through inspection, vouching, or other such means that contracts were awarded using competitive bidding procedures.

Vouch a few transactions from fund 010 for allowable cost as defined in the agreements. We are not opining on this program, so we do not require a high level of assurance. Testing high dollar transactions and scanning other selected transactions should suffice. Review the supporting documentation to determine if the expenditure was:

- a. allowed under the terms of the Project Agreement;
- b. if it was approved by the district treasurer or another board designee and the construction manager prior to payment;
- c. if it excludes any costs for a locally funded initiative;
- d. if the amount paid agrees with the invoice and
- e. if it is recorded in the correct amount in the correct fund.
- f. If the District did not properly segregate transactions into a project construction fund (i.e., did not establish fund 010), report noncompliance accordingly. Auditors should also consider reporting a finding for adjustment. See the OCS Implementation Guide for guidelines pertaining to Findings for Adjustments.

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

Maintenance Funding:

~~Inquire with the client or review capital asset records to determine if the District ever had an OSFC/OFCC project. If so determine whether or not the project maintenance fund (USAS fund 034) has received the required ½ mill and expenditures were in accordance with the approved maintenance plan for the entire 23 years. Note: If they are using the alternate maintenance obligation see the section below.~~

~~Review accounting records and the Project Agreement and determine if the proper amount of maintenance funding was posted to the project maintenance fund (USAS fund 034).~~

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

Locally Funded Initiative:

If applicable, review accounting records and related documents and determine if the district established a separate fund, or special cost center in a fund other than Fund 010, to track receipts and expenditures related to a locally funded initiative.

Vouch selected disbursement transactions from the LFI fund/special cost center. We are not opining on this program, so we do not require a high level of assurance. Testing high dollar transactions and scanning other selected transactions should suffice. Determine whether expenditures were: (1) approved by the district treasurer or another board designee and construction manager prior to payment, (2) in agreement with the vendor invoice, and (3) in compliance with the district's approved Memorandum of Understanding with the OSFC/OFCC. If the district did not segregate transactions related to LFI (i.e. did not establish a separate fund or a separate special cost center in a fund other than Fund 010), report noncompliance accordingly.

Alternate Maintenance Obligation:

Determine whether the school district has elected to use the new alternative mechanism for meeting its maintenance obligation. If so, obtain the district's annual certification³⁵ to the Commission and determine if the school district carbon copied the Auditor of State regional office that the amount required for the year has been transferred into the maintenance fund.

IPA's perform agreed-upon procedures reports to serve as certification. Obtain a copy of this AUP report from the district and review for noncompliance. If the school district has deposited less than the required amount, determine whether AOS sent the required written notification to the district board mandating the necessary deposit within 90 days of the notice.

Interfund Activity:

³⁵ The following is sample annual certificate language: "The undersigned Treasurer of the Board of Education of the XYZ District, YYY County, Ohio hereby certifies that a resolution was duly passed by the Board of Education of said School District on MM/DD/YYYY to transfer \$xx,xxx from the General Fund to the OSFC/OFCC Facility Maintenance Special Revenue Fund.

Determine whether the district transferred interest out of the Project Construction Fund (Fund 010) during the audit period. If so, determine whether:

- the district board adopted a resolution approving the transfer
- the monies transferred represented only interest attributable to the district’s local share of the project
- the monies were transferred to the appropriate funds and accounts. *(Note: the OSFC/OFCC recommends using the Transfer-Out appropriation and Transfer-In receipt accounts to record this activity).*

Surplus Balance:

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

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

DEBT
ENTITIES OTHER THAN COMMUNITY SCHOOLS

1-12 Compliance Requirement: Ohio Const. Art. XII, Section 11; Ohio Const. Art. XVIII, Section 12 Ohio Rev. Code § 133.10, 133.22 133.24, 321.34, 5705.03, 5705.05, 5705.09 and 5705.10; 1981 Op. Atty Gen. No. 81-035 – **Issuing or Retiring Bonds and Notes.**

Summary of Requirements:

Common Types of Debt

BACKGROUND INFORMATION: Per Ohio Rev. Code § 133.01(Q), *general obligation* securities are those collateralized by a pledge of taxing authority, up to the subdivision’s available tax limit (sometimes described as a taxing authority’s “full faith, credit and taxing authority.”)

The following are examples of securities that are **not** general obligations:

Ohio Rev. Code § 133.01(LL) defines *self-supporting securities* as securities, or portions of securities where the fiscal officer estimates that revenue sources, excluding taxes, are sufficient to pay for operating costs plus debt service. These are securities collateralized by pledged revenue,³⁶ without a pledge of taxes. Enterprise utility operations often issue self-supporting securities. Ohio Rev. Code § 133.01(MM) authorizes various subdivisions to issue self-supporting securities; such as municipalities, townships, counties, school districts, and certain other districts. (See the statute for a complete list.) Ohio Rev. Code § 133.01(MM) does not list community schools.

Ohio Rev. Code § 133.08 (D) defines *revenue* securities as those a county issues, collateralized only by pledged revenue and which are not secured by a county’s full faith, credit and taxing authority.

Ohio Const. Art. XVIII, Section 12, authorizes a municipality to issue bonds collateralized by pledged revenues or mortgages to acquire, construct, or extend public utilities. These bonds do not impose any liability on the municipality, except the creditor’s right to the pledged revenue and / or mortgage. That is, this debt is not a general obligation.

Issuance of Securities

- Ohio Const. Art. XII, Section 11 states "No bonded indebtedness of the state, or any political subdivision thereof, shall be incurred or renewed unless, in the legislation under which such indebtedness is incurred or renewed, provision is made for levying and collecting annually by taxation an amount sufficient to pay the interest on said bonds, and to provide a sinking fund for their final redemption at maturity."
- Ohio Rev. Code § 5705.03 provides that the taxing authority of each subdivision must levy sufficient taxes annually as are necessary to pay the interest and sinking fund on and retire at maturity the bonds, notes and certificates of indebtedness of such subdivision subject to the limitations of applicable statutes.
- Ohio Rev. Code § 133.23 describes the legislation required to authorize new securities. Per Ohio Rev. Code § 133.23(C), Legislation must identify the source(s) of repaying the bonds, which may be **any** moneys required by law to be used, or lawfully available, for the purpose authorized. If the bonds are

³⁶ *Pledged revenue* is revenue the debt legislation or covenant provisions pledged as collateral to the debt owners.

general obligations, or a property tax otherwise must be levied for the debt service, the legislation shall provide for levying a property tax sufficient to pay the bonds' debt charges; but the tax amount levied or collected in any year may be reduced by the amount to be available from special assessments,³⁷ revenues and surplus funds of public utilities, any surplus in the funds from which such bonds are to be retired, or other moneys specifically assigned by law or by legislation of the taxing authority for payment of such debt charges.

We interpret Ohio Rev. Code § 133.23(C) as follows:

- Revenue (tax or otherwise) pledged to repay debt must be used for debt service unless the debt is repaid from other sources.
- A government can use unrestricted money or restricted money for purposes consistent with the restriction to pay debt service. For example, a government might use restricted grant revenue³⁸ to pay revenue anticipation note debt service, if the debt proceeds were spent for allowable grant purposes, even if the debt legislation pledges taxes.
- Therefore, if these bonds are a general obligation, a government must *authorize* a levy, but need not levy the tax if it can use other resources to pay the debt service.

Debt Issuance for Board of Trustees for Fire Districts

Pursuant to Ohio Rev. Code Chapter 133, Ohio Rev. Code § 505.401 provides additional borrowing authority for the board of trustees for fire districts organized under Ohio Rev. Code § 505.37(C). This section allows the fire district's board of trustees to issue bonds to acquire fire-fighting equipment, buildings and sites for the district or to construct or improve a building to house fire equipment.

Retirement of Securities

- Ohio Rev. Code § 5705.09(C) requires each subdivision to establish a bond retirement fund into which it must pay sufficient revenues to retire serial bonds, notes and certificates of indebtedness at maturity.
- Ohio Rev. Code § 5705.10 provides that all revenue derived from levies for debt charges on bonds, notes, or certificates of indebtedness must be paid into a [debt service] fund for that purpose.
- Ohio Rev. Code § 133.10(E) further provides that revenue anticipated (i.e. property taxes pledged to pay tax anticipation notes) may be appropriated for purposes other than paying debt charges only after deducting an amount sufficient to pay the debt. The amount (of anticipated revenues) to be applied to debt charges must be set aside in an account in the bond retirement fund. Ohio Rev. Code § 133.10(E) applies to certain other types of securities, for example in Ohio Rev. Code sections:
 - Ohio Rev. Code § 133.13: Certain special assessments
 - Ohio Rev. Code § 133.17: Securities anticipating special assessments
 - Ohio Rev. Code § 133.32: All Ohio Rev. Code Chapter 133 securities
 - Conservancy district special assessments RAN

³⁷ FYI: Special assessment anticipation notes issued per Ohio Rev. Code § 133.17 are collateralized by a pledge of special assessments, *and* as general obligations. However, notes issued per Ohio Rev. Code § 133.13, anticipating special assessments collected in one installment are collateralized only by the assessments and are *not* general obligations.

³⁸ Unless the grant regulations prohibit debt payments. For example, ~~Circular A-87 (now codified in 2 CFR 225)~~ would generally permit using Federal grants to pay debt related to assets used in Federal programs, per Attachment B, item 23b. On December 26, 2013, OMB issued the final OMB Super Circular, implementing changes to uniform administration requirements, cost principles, and audit requirements for federal awards.

Issuance of Notes

- Ohio Rev. Code § 133.22 requires that when a subdivision issues notes, its financial officer must notify the county auditor that such notes have been sold. Per Ohio Rev. Code §321.34(B), when a county auditor *advances* tax revenue to a subdivision, the county auditor must allocate the advance between the subdivision's general and debt service fund, to provide sufficient tax revenue to pay the subdivision's outstanding G.O. indebtedness.
- Ohio Rev. Code § 505.262(A) authorizes a board of township trustees to issue notes of the township to finance installment payment purchases of equipment, buildings, and sites for any lawful township purpose. All notes issues shall be pursuant to Ohio Rev. Code § 133.20. Furthermore, The Attorney General opined that Ohio Rev. Code § 505.262(A) does not grant explicitly or implicitly the authority of the township to grant a security interest in the property purchased by the installment contract. [1996 Op. Atty Gen. No. 1996-048]³⁹

Special Features

- FYI: Ohio Rev. Code Chapter 133 securities may include the following features:
 - Floating interest rates [Ohio Rev. Code § 133.26(A)]
 - Early redemption or call provisions [Ohio Rev. Code § 133.26(B)]
- Legislation authorizing a debt issuance may contain restrictions on the source of payment for debt charges.

Retiring Debt from Funds Other than a Debt Retirement Fund

- ***Absent a specific requirement***, debt may be paid from any unrestricted monies held, segregated from restricted monies, in a fund which was established for a purpose not inconsistent with paying such debt. When evaluating compliance with the requirements in this section, place emphasis on the source of monies used to repay debt. When a subdivision pays debt from a fund other than a debt retirement fund, consider the following:
 - Ohio Rev. Code § 5705.10 (I) provides that money paid into a fund shall be used only for the purpose for which such fund was established. Therefore, money in a fund may be used to pay debt charges provided the payment of such debt charges is consistent with the purpose for which the fund was established;
 - With regard to tax anticipation notes, Ohio Rev. Code § 133.24(D) provides that, except for ***capitalized interest***⁴⁰, debt charges on tax anticipation notes are payable only from the revenue collected by the tax levy anticipated.

³⁹ For example, townships cannot take out a simple bank loan to purchase a truck for road purposes since “bank loans” are not a statutorily permitted form of debt for townships. However, townships do have authority to issue securities under Ohio Rev. Code Chapter 133 (e.g., anticipatory debt usually secured for infrastructure). However, Ohio Rev. Code § 505.262(A) and 1996 Op. Atty Gen. No. 96-048 provide specific authority for townships to issue Chapter 133 securities for the purposes this paragraph describes.

⁴⁰ Ohio Rev. Code § 133.01(E) defines *capitalized interest* as interest received with the proceeds of a security. For example, this would include interest payable accruing between the security's issuance date and the date the security was sold. Since the government must pay this interest to the security owners, the government generally must set

- Ohio Rev. Code § 5705.05 prohibits using taxes levied for current expenses to pay debt charges.
- Ohio Rev. Code § 5531.10(C) (issuing obligations for state infrastructure projects) provides that the holders or owners of such obligations shall have no right to have moneys raised by taxation by the state of Ohio obligated or pledged, and moneys so raised shall not be obligated or pledged, for the payment of bond service charges.⁴¹
 - Additionally, the section specifically permits townships receiving distributions from the Gasoline Excise Tax Fund in the state treasury to use that money to pay debt service on State Infrastructure Bank (SIB) obligations. (Ohio Rev. Code § 5531.10 and 5735.27)

- 1981 Op. Atty Gen. No. 81-035 states:

Certain moneys paid into the general fund which are not derived from a general levy for current expenses are placed in the general fund precisely because their use is not restricted. (See Ohio Rev. Code §5705.10). Such monies may be used to pay debt charges provided that they have not been commingled with general fund monies which may not be used for debt payment. Where otherwise unrestricted monies have been paid into the general fund and have been commingled with restricted monies to the extent that the particular source from which the monies originated cannot be distinguished, such monies may be used to pay debt charges only after they have been transferred to an appropriate fund pursuant to Ohio Rev. Code § 5705.14.

- Ohio Rev. Code § 505.262(A) authorizes a board of township trustees to issue notes of the township to finance installment payment purchases of equipment, buildings, and sites for any lawful township purpose. All notes issues shall be pursuant to Ohio Rev. Code § 133.20. Furthermore, The Attorney General opined that Ohio Rev. Code § 505.262(A) does not grant explicitly or implicitly the authority of the township to grant a security interest in the property purchased by the installment contract. [1996 Op. Atty Gen. No. 1996-048]

- The Expedited Local Partnership Program provides a way for school districts to start approved school building projects using local funds while they wait for state funding under the “main” Classroom Facilities Assistance Program (CFAP) program. Once a district is eligible for CFAP, it may apply this advance expenditure of local resources toward its portion of the cost of its total CFAP project. If a district has spent more than its share of its CFAP project while proceeding under the Expedited Program, the School Facilities Commission must reimburse the district the amount of the over expenditure. Ohio Rev. Code § 3318.36(E)(2) provides that school districts may first deposit reimbursed money into either the district's general fund or a permanent improvement fund to replace local resources the district withdrew from those funds for constructing classroom facilities included in the district's CFAP project. The remaining reimbursement monies must be used to pay debt service on classroom facilities constructed under the Expedited Program. (Ohio Rev. Code § 3318.36(E)(2))

aside this interest for the first debt service payment and should not use it for the purpose for which the principal was issued. [EX133.16] Do not confuse this with *capitalized interest discussed in FASB 34 & 62 or GASB 34, 37, etc.*

⁴¹ Ohio Rev. Code § 5531.10(C) is not a requirement to use a Debt Service Fund. Rather, this section describes statutory exceptions to the general rule that monies not otherwise restricted could be used to pay debt where the purposes of both were not inconsistent. In other words, governments with SIB loans cannot obligate or pledge State-levied taxes to pay bond service charges (except townships receiving distributions from the Gasoline Excise Tax Fund in the state treasury to use that money to pay debt service on State Infrastructure Bank (SIB) obligations).

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

Suggested Audit Procedures – Compliance (Substantive) Tests

For securities issued during the audit period, inspect the debt legislation and determine under which Rev. Code statute the debt was issued. If that section is not listed in this Ohio Compliance Supplement Chapter, read the specific statute and amend the testing steps to include tests to determine:

- The legality of the source of repayment and collateral. (We can normally rely on documents (such as an offering statement) bond counsel or the underwriter prepared describing the source of repayment and collateral, if they were involved with a debt issue. We should inspect their conclusions for reasonableness and summarize in the permanent file.)
 - Whether the government properly segregated any revenue pledged for debt service or capitalized interest (i.e. interest accruing between the security’s issuance date and the date the security was sold) and used that revenue for debt service. This will often require establishing a debt service fund.
 - Whether the government used the proceeds for the purposes authorized.
 - If the debt is still outstanding at the end of the audit period, include copies or summaries of the information related to the three bullet points above in the permanent file.
 - If the debt includes features such as floating interest rates or early redemption or call provisions, determine if enabling legislation and the Ohio Rev. Code authorize those features. (For example, Ohio Rev. Code § 133.22(D) describes features BAN can include.)

Inspect the county tax settlements and trace revenues to the funds indicated. If amounts from tax levies for bond retirement are being placed into funds other than bond retirement funds, inspect documentation that the government deducted an amount sufficient to pay the debt charges. (Ohio Rev. Code § 5705.10(B))

By reading the government’s financial statements or inspecting its ledgers, determine where debt is paid from. If other than bond retirement funds, determine that:

- Debt paid from a restricted fund was paid from revenue which could be used for the same purpose for which the debt proceeds were spent [Ohio Rev. Code § 5705.10 or 133.24(D)];
- Restrictions, if any, in the debt-authorizing legislation were followed;
- Revenue derived from a general levy for current expenses is not used to pay debt charges [Ohio Rev. Code § 5705.05]; or
- Monies used to pay debt from the general fund have not been commingled with general fund monies which may not be used for debt payment [1981 Op. Atty. Gen. No. 81-035].

Note: Where bond counsel was involved with debt issues we are testing, we can usually 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.

Board of Trustees for Fire Districts

By reading the minutes, inspecting bond ledgers or other documents, or by inquiry, determine if the fire district used this type of borrowing.

If so,

- trace the bond issuance to the budget;
- inspect the resolution authorizing the bond issuance;
- determine whether the issuance is in accordance with Ohio Rev. Code Chapter 133 requirements; and
- determine whether the proceeds were used to acquire fire-fighting equipment, buildings or sites for the district or for the purpose of constructing or improving a building to house fire equipment.

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

1-13 Compliance Requirement: Ohio Rev. Code § 133.10, 133.22 and 133.24 – Bond, Tax and Revenue Anticipation Notes (BAN, TAN and RAN).

Summary of Requirements: Per Appendix C-1 in the OCS Implementation Guide, several Ohio Rev. Code sections authorize TAN, RAN or BAN. Short-term TAN or RAN are generally subject to (1) below.⁴² Long-term TAN are *generally* subject to (2) below. Significant requirements related to BAN are described at the end of this step.

- 1) **Short-term** notes anticipating *current* revenues, most often current tax levies: A government cannot issue these notes for more than a defined percentage of the current-year's estimated revenue (for example, ½ the current annual estimated revenue from utility charges or grants [Ohio Rev. Code § 133.10(B)], or approximately ½ of the next tax settlement, [Ohio Rev. Code § 133.10(A)]). These notes normally mature within six months, or the end of the fiscal year, whichever occurs first. Most Ohio Rev. Code sections authorizing these notes require them to comply with Ohio Rev. Code § 133.10. The remainder of this step refers to these notes as Ohio Rev. Code § 133.10 *short-term notes*.
- 2) **Long-term** notes anticipating *future tax* revenues, from voted tax levies, usually of a limited life: A government cannot issue these notes for more than the amount the levy will generate over its life, or a portion of its life. These notes mature over the life of the levy or a shorter period Ohio Rev. Code specifies, such as 5 or 10 years. Most Ohio Rev. Code sections authorizing these notes require them to comply with Ohio Rev. Code § 133.24. The remainder of this step refers to these notes as Ohio Rev. Code § 133.24 *long-term notes*.

RC 133.10 short-term TAN or RAN

TAN:

- TAN must mature no later than the last day of the sixth month after the issue date, and in no case may they mature after the end of the fiscal year. The aggregate amount outstanding cannot exceed ½ of the amount anticipated for the next six months (typically the next settlement minus advances). [Ohio Rev. Code § 133.10(A)]
- Ohio Rev. Code § 133.10(C) amends 133.10(A) above for counties, municipalities, townships and school districts. If one of these entities issues TANs under Ohio Rev. Code § 133.10(C), these TANs need not mature until the end of the year. (That is, they are not restricted to a six-month maturity.)
- Notes a school district issues anticipating a delayed property tax settlement may be for up to 90% of the amount estimated to be received by that settlement (other than taxes to be received for paying debt charges) minus advances, and may mature as late as the August 31 after the June 30 fiscal year end. [Ohio Rev. Code § 133.10(D)]

RAN:

- The notes issued cannot exceed ½ of the amount of the projected revenues remaining to be received during the fiscal year, minus advances and prior collections, as estimated by the fiscal officer. [Ohio Rev. Code § 133.10(B)]

⁴² The references to *long-term* and *short-term* above refer to the legal requirements, not the classification of this debt under GAAP. Auditors should refer to GASB Codification B50 and GFOA General Purpose Government CAFR checklist for guidance on GAAP debt classifications.

- Notes issued anticipating current revenues in and for any fiscal year from any source or combination of sources, including distributions of any federal or state moneys, other than the proceeds of property taxes shall mature not later than the last day of the fiscal year for which the revenues are anticipated. [Ohio Rev. Code §133.10(E)(2)]

All Ohio Rev. Code §133.10 short-term TAN or RAN

- Pledged revenue (tax or otherwise) collected to retire these notes is considered appropriated for debt charges and financing costs. The government can appropriate this revenue for other purposes only after deducting sufficient amounts to pay debt service. The government must deposit pledged revenue sufficient to pay the debt in an account in a debt service fund. [Ohio Rev. Code § 133.10(E)(1)]
- These notes cannot be issued prior to the first day of the fiscal year. [Ohio Rev. Code § 133.10(E)(2)] (The only exception is that a board of education of a school district may issue notes as early as 10 days before the first day of the fiscal year (i.e., by June 21), provided that the proceeds of the notes can neither be spent nor considered available for appropriation prior to the first day of the fiscal year [i.e., July 1]). [Ohio Rev. Code § 133.10(H)]
- The government can spend note proceeds only for the purposes for which the related revenue can be spent. [Ohio Rev. Code § 133.10(E)(3)] For example, if a government issues RAN, anticipating Federal grant proceeds, the government can spend the note proceeds only for purposes the Federal grant permits.

Ohio Rev. Code § 133.24 long- term TAN

- The aggregate amount of principal outstanding may not exceed the anticipated levy proceeds provided in the applicable law by a statement of percentage or by a limitation on the amount of annual maturities. These TAN must mature by December 31 of the year authorized by statute, or by December 31 of the last year of the levy, whichever is earlier. [Ohio Rev. Code § 133.24(B)] Therefore, the duration of these notes should match the levy's life. (Unless another Ohio Revised Code section specifies a shorter period. See the Appendix C-1 in the OCS Implementation Guide for examples.) The estimated annual debt service should approximate the annual levy proceeds.
- Debt service is payable only from the levy proceeds. (Except the government should use capitalized interest collected with the debt proceeds to pay capitalized interest due with the first debt service payment.) The levy proceeds are deemed appropriated for debt service, and must be deposited into an account in the debt service fund. (The interest payable from capitalized interest should be paid with capitalized interest.) [Ohio Rev. Code § 133.24(D)]

--Any amount so deposited and not needed for the purpose in the particular fiscal year may, without compliance with any other law or approval by any other agency, be transferred to the special fund established for the proceeds of the tax levy [Ohio Rev. Code § 133.24(D)] (such as a capital projects fund, if the tax was levied for both debt service and for a specific capital project.)

Requirements applicable to BAN

- Per Ohio Rev. Code § 133.22, the legislative body must pass legislation authorizing:
 - The purpose for (eventually) issuing the bonds (which is limited to one purpose) [(A)(1)(a)]
 - The maximum amount of BAN, which cannot exceed the bond amount [(A)(2)(a)]
 - The maximum maturity, which cannot exceed (C). (See 133.22(C) below).
 - If the bonds are eventually payable from a property tax, the legislation provides for the levy of property taxes while the BAN are outstanding;

- (Note: We can normally rely on bond counsel for assuring compliance with the following provisions. This requirement is listed as background information for you.) Per §133.22(C), BAN issued with a latest maturity of less than two hundred forty months may be renewed for up to two-hundred-forty months.
 - Per (C)(2), five years after issuing the original BAN, a portion of the principal shall be paid annually, in amounts at least equal to, and payable not later than the payment dates of, the principal that would have been paid if the government issued bonds at the expiration of the initial five-year period.
 - Per (C)(3), the latest maturity of BAN may not exceed the maximum maturity of the bonds anticipated plus five years. (Bond maturities can range from 5 to 50 years, per Ohio Rev. Code § 133.20.)
 - Note: There are exceptions to these general rules, but they are too complex to summarize here. (Refer to Ohio Rev. Code § 133.22(C) for exceptions.)

- (These features are listed for your information.) Per §133.22(D), BAN may include the following features:
 - Put options (D)(6)
 - Issue commercial paper in lieu of BAN (D)(7)
 - Floating interest rates (D)(8)
 - Interest rate swaps (D)(9)(b)

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

For notes issued during the audit period, inspect the debt legislation and determine under which Rev. Code statute the debt was issued. If that section is not listed in this Ohio Compliance Supplement Chapter (including Appendix C-1 of the OCS Implementation Guide), read the specific statute and amend the testing steps to include tests for the 5 debt requirements below. If a note is outstanding at the end of the audit period, include copies or a summary of documentation addressing the 5 compliance tests below in the permanent file.

Determine whether:

1. Note proceeds did not exceed Ohio Rev. Code limits, typically limited by the related revenue estimate (RAN or TAN) or bond proceed (BAN) estimates. (We can normally rely on the work of bond counsel or the underwriter, if they were involved with a debt issue. We should inspect their conclusions for reasonableness and summarize for the permanent file.)
2. Notes did not exceed limitations on the time to maturity. (*Usually*, notes issued for operating expenses must mature in one year. Notes used for capital improvements have longer maturities. BAN can mature up to the life of the eventual bonds.) (We can normally rely on the work of bond counsel or the underwriter, if they were involved with a debt issue. We should inspect their conclusions for reasonableness and summarize for the permanent file.)
3. The government repaid the debt with the pledged or other legal revenue (RAN and TAN), or refinanced BAN according to the BAN legislation.
4. The government properly segregated any revenue pledged for debt service and used that revenue for debt service.
5. The government used the note proceeds for the purposes authorized.

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

1-14 Compliance Requirement: Ohio Rev. Code § 3375.404 - Additional borrowing authority for boards of library trustees.

Summary of Requirements: Ohio Rev. Code § 3375.404 allows a board of library trustees of a public library that receives an allocation of the library fund to anticipate its portion of the proceeds of the library fund distribution and issue library fund facilities notes to pay the costs of financing the facilities (or certain other property), or to refund any refunding obligations.

A library board may issue such notes only if it projects that the annual note service charges (including interest, repayment of principal, and redemption premiums) are capable of being paid from the library’s annual Library and Local Government Support Fund (LLGSF) (also known as: “public library funds”) receipts.

The maximum annual debt service for these notes cannot exceed 30% of the average LLGSF funding (public library funds) the library received for the two years preceding the year the notes were issued.

The notes are payable from the LLGSF monies (public library funds) received by the library board issuing the notes, or from the proceeds of notes, refunding notes, or renewal anticipation notes which may be pledged for such payment in the authorizing resolution. The notes are payable solely from the funds pledged for their payment as authorized by Ohio Rev. Code § 3375.404 and all notes must contain on their face a statement to that effect.

The maximum maturity, in the case of any anticipation notes, cannot exceed 10 years from the date of issue of the *original* anticipation notes.

For *refunding* notes or any notes that are not anticipation notes, the maximum maturity cannot exceed 25 years from the date of the original issue of notes.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

By reading the minutes, inspecting bond ledgers or other documents, or by inquiry, determine if the library used this type of borrowing.

Calculate, or inspect the library's calculations, that the maximum annual note debt service charges does not exceed 30% of the average LLGSF funding (public library funds) for the two years preceding the year in which the notes are issued. (This step should only apply in the year notes were issued.)

Inspect the notes for the statement that the notes are payable solely from the funds pledged for their payment as authorized by Ohio Rev. Code §3375.404. In other words, ensure the debt service funds were allocated to the appropriate fund(s) based on the legal authority to retire the debt.

Inspect the notes for the maximum maturities of 10/25 years.

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

1-15 Compliance Requirement: Ohio Rev. Code §133.29, 135.14, 731.56 Governments investing in their own securities.

Important Note: Entities must have the legal authority to *both buy and sell* the debt. Ohio Rev. Code §133.29 authorizes entities to invest in their own securities; however, there must be a separate, specific authority to issue the debt before the Bond Retirement or other authorized Fund may purchase it.

Summary of Requirement:

Manuscript and Treasury Debt in General

Before a taxing authority sells any securities of the subdivision to others, the taxing authority may offer the securities at their purchase price and accrued interest to the subdivision. The securities may be offered to the officer or officers who have charge of the bond retirement fund of the subdivision, or in the case of a municipal corporation, to the treasury investment board, or an officer or similar treasury investment board having the authority under a charter. (Ohio Rev. Code §133.29). Ohio Rev. Code §133.01(NN) defines a "taxing authority" to include a county's board of county commissioners, a municipal corporation's legislative authority, a school district's board of education, and a township's board of township trustees, among others defined in the Code.

This type of debt is often referred to as "manuscript debt" or "treasury debt". Manuscript or treasury debt can be outstanding for five years, unless it is matched to a specific obligation or debt of the subdivision (such as obligations of the debt retirement fund). (Ohio Rev. Code §135.14(D)).

Any securities sold under this section shall bear interest at a rate(s) that is a fair market rate(s) for such securities at the time of the sale, and a certificate of the fiscal officer that the interest rate(s) borne by the securities is the fair market rate(s) is binding as to the statements set forth. (Ohio Rev. Code §133.29(B)).

In addition to a taxing authority's ability to direct the bond retirement fund of the subdivision to purchase its securities, certain taxing authorities have additional options for purchasing manuscript or treasury debt.

County

A County may invest its "inactive moneys" in bonds or other obligations of the County. (Ohio Rev. Code § 135.35(A)(4)). Ohio Rev. Code § 135.31 defines a county's "inactive moneys" as all public moneys in public depositories in excess of the amount determined to be needed as active moneys (which are the amount of public moneys in public depositories determined to be necessary to meet current demands upon a county treasury, and deposited in a commercial or money market account). There is no limit on what fund the inactive moneys must be drawn from, so there is more flexibility for purchasing manuscript or treasury debt.

Other Political Subdivisions in General

All other political subdivision investments are addressed in Ohio Rev. Code § 135.14. The statute permits a political subdivision to invest "interim moneys" in a series of investment categories. "Interim moneys" are defined in Ohio Rev. Code § 135.01(F) as public moneys in the treasury of the state or any subdivision after the award of inactive deposits has been made in accordance with Ohio Rev. Code § 135.07, which moneys are in excess of the aggregate amount of the inactive deposits (a public deposit other than an interim deposit or an active deposit) as estimated by the governing board prior to the period

of designation and which the treasurer or governing board finds should not be deposited as active or inactive deposits for the reason that such moneys will not be needed for immediate use but will be needed before the end of the depository period of designation. The depository period of designation is the period of time during which the governing board has designated a public depository for public moneys of the subdivision, a designation that must be made once every five years. (Ohio Rev. Code §135.12(B)). An "active deposit" is defined as a public deposit necessary to meet current demands on the treasury.

Municipal Corporation (City and Village)

In addition to the bond retirement fund options provided in Ohio Rev. Code § 133.29, a municipal corporation (city or village) may invest moneys in the treasury that will not be required to be used for a period of six months or more in the obligations of the municipal corporation (Ohio Rev. Code § 731.56). For the purposes of this section, any "interim moneys" or "inactive deposits" that will not be needed within six months may be invested. Similar to the rules for a County, there is no prescription as to which fund the "interim moneys" or "inactive deposits" must be drawn from.

Ohio Rev. Code § 731.57 and 731.58 add some extra qualifiers for manuscript or treasury debt investments. Before the investment is made, the auditor or chief fiscal officer must certify to the mayor or village solicitor/law director the probable requirements of money for the use of the municipal corporation for the next six months. The mayor or village solicitor/law director may then order the investments. It is not necessary to advertise bonds to make such an investment.

When a municipal corporation acts to convert such investments into cash, the obligations must first be offered to the sinking fund commission. If the sinking fund commission does not purchase the investments, they may then be sold in any manner authorized by law for the sale of investments by the sinking fund.

For as long as the treasury maintains these investments, they are held in a "treasury investment account". The chief accounting officer of the municipal corporation will enter all transactions relating to the investment of treasury funds in security obligations of the municipal corporation. When securities or interest coupons are due, the accounting officer shall collect them in the same manner as other receipts are collected.

~~Interest earned on such investments shall be paid into the general fund, unless the invested money was taken from a special fund or funds derived from the sale of bonds, notes, or certificates of indebtedness. In such case, the interest should be paid into the sinking fund or bond retirement fund of the municipal corporation. (1942 Op. Atty. Gen. No. 1942-4897) Interest earned from the investment or deposit of tax revenues must be allocated to the fund to which the principal belongs. (OAG opinion 80-003).~~

Charter Municipal Corporations

If a municipal corporation has adopted a charter, it may adopt its own set of investment principles that may be different from those expressed in the Ohio Revised Code. Ohio Rev. Code § 133.29 authorizes a municipal corporation that has a charter to authorize a treasury investment account that would operate in the same way as a municipal corporation treasury investment account under Ohio Rev. Code § 731.56. Beyond this provision, a municipal corporation may adopt a charter that addresses its ability to invest in manuscript or treasury debt as long as it does not conflict with general laws. (Ohio Const. Art. XVIII, Section 3.).

School Districts

School districts do not have any options for manuscript or treasury debt beyond using moneys in the bond retirement fund as discussed in Ohio Rev. Code § 133.29, 1955 Op. Atty. Gen. No. 1955-5263). Such a transaction will be considered an investment of the sinking fund or bond retirement fund, and interest will be deposited and reinvested just like other investments of the sinking fund or bond retirement fund.

Townships

Townships do not have any options for manuscript or treasury debt beyond using moneys in the bond retirement fund as discussed in Ohio Rev. Code §133.29.

Accounting for Manuscript Debt

There are two methods for recording manuscript debt in the accounting records:

Investment Method

Record proceeds from the sale of notes in the borrowing fund (often the general fund or project fund). Then record the amount received from the Bond Retirement Fund (or other authorized fund in the case of municipal corporations) as an investment on the investment record. Do not decrease the Bond Retirement or other authorized fund’s balance. When preparing the bank reconciliation, outstanding securities should be included as an investment.

The county auditor, having been properly notified of the debt service requirements, should allocate property taxes on the tax settlement among the proper funds. The amount payable to the Bond Retirement or other authorized fund is the amount necessary to repay the principal plus interest on the outstanding securities. Debt service principal and interest, should be recorded in the Bond Retirement or other authorized fund. Upon payment of principal, a corresponding reduction of the investment should be recorded on the investment record.

Advance/Interfund Method

Record an advance-in in the debtor (borrowing) fund and a corresponding advance-out of the creditor (loaning) fund. Also, governments reporting under GAAP should record an interfund asset and offsetting interfund liability for both modified and full accrual bases. If the borrowing is between a governmental activity and a business type activity, the entity wide statements should also report this as an internal balance (GASB Cod. 1300.120 and 1800.102(a)).

Governments reporting under GAAP must use the Advance/Interfund method for financial statement reporting (2013-14 GASB Comprehensive Implementation Guide Q&A 6.4.5). This means that if a GAAP entity uses the Investment Method for their accounting records, they must convert the transactions to the Advance/Interfund Method during the GAAP conversion.

GAAP, Cash, and OCBOA basis governments should disclose the fund liabilities, including interest rates and repayment schedules, in their notes under either accounting method.

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

<ul style="list-style-type: none"> • Knowledge and Training of personnel • Tickler Files/Checklists • Bond Counsel/Lender Involvement • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Determine whether the entity issued manuscript debt during the audit period or has any manuscript debt outstanding as of fiscal year end.

If so, review the governing body’s ordinance or resolution approving the issuance and determine the legal authority under which such debt/investment was issued. If applicable, we may rely on an opinion from bond counsel to verify the entity’s legal authority for issuing such debt. A copy of the ordinance or resolution and bond counsel opinion should be placed in the permanent file.

Determine the issuance date⁴³ of the debt/investment and review the entity’s debt/investment schedules to determine whether the principal matured within five years.

Review the entity’s debt/investment schedules and determine whether the entity has charged interest at the proper rate and amount in the Bond Retirement or other authorized fund.

For all entities other than municipal corporations, determine whether the amount of manuscript debt issued was limited to the available resources in the bond retirement fund.

For municipal corporations, determine whether the amount of manuscript debt issued was limited to the available resources in the general treasury or other authorized fund.

Scan the entity’s debt schedules, investment records, monthly bank reconciliations, and annual financial statements to determine whether the entity has properly accounted for all manuscript debt transactions (i.e., note proceeds, property tax and interest receipt allocations, debt service payments on principal and interest, and outstanding debt and investment amounts).

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

⁴³ Issuance date isn’t always the sale date. If the “Obligation’s Closing Date” is the actual date of the issuance, this should be recorded as the issuance date.

ACCOUNTING AND REPORTING GENERAL

1-16 Compliance Requirements: Ohio Admin. Code § 117-2-03(B) and Ohio Rev. Code § 117.38 and §1724.05: Annual financial reporting.

Summary of Requirements:

Note: The Auditor of State is in the process of ~~developing an~~ implementing the Annual Financial Data Reporting System (System AFDRS). AFDRS is an Internet based application that allows certain financial statement, debt, and demographic data to be entered and transmitted to the AOS to satisfy the filing requirements prescribed by the Ohio Revised Code and the Ohio Administrative Code. ~~More information will be provided to entities as this process gets closer to completion.~~ All cities and counties were required to report via AFDRS for periods ended December 31, 2013 and after, and all schools, community schools and educational service centers were required to report via AFDRS for periods ended June 30, 2014 and after. All townships, villages and libraries will be required to report via AFDRS for periods ending December 31, 2014 and after. All other entity types will be phased into AFDRS reporting. Please refer to the Auditor of State website at <https://ohioauditor.gov/financialreporting/default.html> for additional information.

GAAP Basis Entities

Ohio Admin. Code § 117-2-03(B) requires counties, cities, school districts, educational service centers, and community schools to report annually (but not necessarily account) on a GAAP basis.

Ohio Rev. Code § 1724.05 requires Community Improvement Corporations established under Ohio Rev. Code Chapter 1724 to report annually (but not necessarily account) on a GAAP basis.

Per Ohio Rev. Code §117.38, ~~entities filing on a GAAP-basis~~ entities must file annual reports ~~within 150 days of their fiscal year end (except Ohio Rev. Code § 1724.05 requires community improvement corporations to file within 120 days of their fiscal year end).~~⁴⁴

Per AOS Bulletins 2006-002 and 2008-001, annual reports filed with AOS must be **complete** to avoid the application of a penalty of \$25 per day (\$750 maximum) permissible under Ohio Rev. Code §117.38. To be **complete**, GAAP entities must submit the basic financial statements, including the government-wide financial statements, fund financial statements, notes to the basic financial statements, Management's Discussion & Analysis, and any other required supplementary information to be considered a complete

⁴⁴ We will cite noncompliance if a "GAAP government" files OCBOA- ~~cash, modified cash~~ or regulatory financial statements. The following cite would apply:

"Ohio Admin. Code § 117-2-03 (B) requires the County to prepare its annual financial report in accordance with generally accepted accounting principles. The County filed financial statements with the Auditor of State, but those statements followed a cash and investments accounting basis rather than generally accepted accounting principles. The accompanying financial statements and notes omit material assets, liabilities, fund equities, and disclosures. The County is subject to fines and various other administrative remedies."

(For this finding we need not differentiate regulatory vs OCBOA formatting or list the date the statements were filed, because it is irrelevant.)

filing.⁴⁵

Cash Basis Entities

Per Ohio Rev. Code §117.38, entities filing on a cash-basis⁴⁶ entities must file annual reports with the Auditor of State within 60 days of the fiscal year-end. The Auditor of State may prescribe by rule or guidelines the forms for these reports. However, if the Auditor of State has not prescribed a reporting form, the public office⁴⁷ shall submit its report on the form used by the public office. Any public office not filing the report by the required date shall pay a penalty of \$25 for each day the report remains unfiled, not to exceed \$750. The AOS may waive these penalties, upon the filing of the past due financial report.

The report shall contain the amount of: (A) receipts, and amounts due from each source; (B) expenditures for each purpose; (C) income of any public service industry that the entity owns or operates, as well as the costs of ownership or operation; and (D) **public debt** of each taxing district, the purpose of the debt, and how the debt will be repaid. NOTE: Using AOS shell reports will meet this requirement⁴⁸.

Note: We normally would not deem a late filing to constitute “direct and material” noncompliance on the determination of financial statement amounts (i.e. the auditor would normally not report a late filing citation in the GAGAS compliance report, however the auditor should issue a management letter comment for late filings.)

Material noncompliance would ~~also~~ exist if:

- An entity subject to GAAP did not follow GAAP in its annual report.
- A GAAP filing was significantly incomplete (see discussion of complete in the *GAAP Basis Entities* section above).
- The filing was significantly misstated.

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

⁴⁵ Failing to file an annual report could be a symptom of an inadequate accounting system, inadequate training of personnel in understanding the accounting and reporting process, unposted or unreconciled records or other significant issues affecting the control environment, or which may even pose fraud risks.

⁴⁶ Cash basis includes OCBOA-cash, OCBOA-modified cash and regulatory basis.

⁴⁷ Ohio Rev. Code § 117.01(D) states that, as used in Ohio Rev. Code Chapter 117, “*public office* means any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.” 1989 Op. Atty. Gen. No. 89-055 indicates the Auditor of State has discretion to interpret and apply the definition of “public office” used in Ohio Rev. Code § 117.01(D). The Auditor of State has therefore determined that charter schools qualify as public offices as defined under this section.

⁴⁸ For OCBOA-cash or OCBOA-modified cash basis, the applicable basic financial statements, include the government-wide financial statements, fund financial statements, notes to the basic financial statements, Management’s Discussion & Analysis, and any other required supplementary information.

<ul style="list-style-type: none"> • Presence of an Effective Accounting System • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures - Compliance (Substantive) Tests:

Inquire if the government files its financial reports with the Auditor of State on a GAAP basis.

Confirm whether the report was filed timely.

Note: The AFDRS tracker includes due dates and filing dates. Auditors should check the tracker to determine compliance with due dates. If an entity’s report was not filed by the required due date or by an approved extension date, a management letter comment should be issued.

Auditors should inspect a copy of the filed report (in most cases auditors can obtain this report through AFDRS, if AFDRS access is unavailable obtain a copy of the filed report retained and available in the fiscal office) to determine whether a GAAP filing was substantially complete.

Trace selected totals from the ~~annual~~ filed report to the underlying accounting system. *(If we use the ~~annual~~ filed report as a trial balance, AOS auditors will satisfy this requirement by completing the mandatory Trial Balance steps from the financial audit program.)* If the report is significantly deficient, we should cite Ohio Rev. Code § 117.38 or § 1724.05 for filing an incomplete or misleading report, ~~as described in the box above.~~

Determine whether the filed report includes the statements, disclosures and required supplementary information (if applicable) required by GAAP (i.e. determine if the filing was substantially **complete** as described above.

If the government is not mandated to follow GAAP and presents AOS Basis special purpose framework statements (instead of OCBOA special purpose framework (“GAAP look-alike”)):

- Follow AU-C 800.21 which retained the guidance from AOS Bulletin 2005-002 and applies when regulatory basis statements are available for general use (local government statements we or IPA’s audit are available for general use). AU-C 800.21 requires issuing a dual opinion:
 - An adverse opinion on conformance with GAAP.
 - A second opinion on the regulatory basis.

If a GAAP-mandated government does not follow GAAP or present OCBOA special purpose framework (“GAAP look alike”) statements but presents AOS Basis special purpose framework statements:

- Issue adverse opinion on conformance with GAAP
 - These governments do not qualify for the “dual opinion.”
- Issue GAGAS noncompliance finding

If a GAAP-mandated government presents their financial statements using an OCBOA special purpose framework (“GAAP look-alike statements”):

- Follow AU-C800.A25 which requires auditors to include an emphasis of matter paragraph following the opinion paragraph alerting the users of the auditor’s report that the financial statements are prepared in accordance with a special purpose framework and that the basis of accounting is a basis of accounting other than GAAP.
- Issue GAGAS noncompliance finding

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

1-17 Compliance Requirements: GAAP and annual financial reporting for community improvement corporations (CICs)⁴⁹ and development corporations (DCs).⁵⁰

Summary of Requirements: Annual Reporting (Ohio Rev. Code § 1724.05– CICs and §1726.11– DCs)

- Corporations must submit (unaudited) annual GAAP financial reports to the Auditor of State. The corporation must file the annual report within 120 days of fiscal year end.⁵¹ The Ohio Revised Code does not prescribe a fiscal year end for these corporations.

Failure to Report/Present Auditable Records (Ohio Rev. Code §1724.06- CICs and § 1726.12- DCs)

- Additionally, the Auditor of State must certify corporations to the Secretary of State in the following two circumstances:
 - If a Corporation files its annual report more than 90 days delinquent (i.e., does not file its annual GAAP financial statement report within 120 days of its fiscal year end).
 - If a Corporation does not present auditable records within 90 days of a determination by the Auditor of State that a corporation is unauditale.
- Upon certification, the Secretary of State is to cancel the Corporation’s articles of incorporation until the deficiency is remedied.
- For more information, see AOS Bulletin 2001-003.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.

⁴⁹ Being non-profit under chapter 1702 is not enough to be a CIC. To be a CIC requiring an AOS audit, the entity must be incorporated under both 1702 & 1724. (A Development Corp. would only be incorporated under chapter 1726.) Read the articles and see if they refer to chapters 1724 or 1726. Merely entitling an entity as an “improvement” or “development” corporation is not sufficient. The articles of incorporation must support that the entity falls under 1724 or 1726.

⁵⁰ Development corporations organized under Ohio Rev. Code Chapter 1726 are stock-issuing entities.

⁵¹ CICs or DCs that do not file GAAP statements and notes (and required supplementary information, if any) within 120 days of its fiscal year end are *not* subject to AOS penalties prescribed in Ohio Rev. Code §117.38. “A community improvement corporation is, in essence, a private non-profit corporation which is bound by the general terms of Ohio Rev. Code Chapter 1702 (non-profit corporations). A privately organized entity that performs a public purpose occupies a status no different from that of countless other non-profit corporations, the private nature of which is indisputable. Nor is a community improvement corporation possessed of powers derived from statute. Although Ohio Rev. Code § 1724.02 provides that a community improvement corporation shall possess certain powers enumerated therein, the ultimate source of its power is not Ohio Rev. Code § 1724.02, but its articles of incorporation and code of regulations.” [1979 Op. Atty Gen. No. 79-061] Also, auditors should take note that CIC and DC are subject to a 120-day filing requirement rather than the 150-day requirement applicable to other GAAP entities.)

<ul style="list-style-type: none"> • Policies and Procedures Manuals • Knowledge and Training of personnel • Presence of an Effective Accounting System • Legislative and Management Monitoring 		
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Suggested Audit Procedures - Compliance (Substantive) Tests:

Read the corporation’s annual report. Determine if it complies with GAAP in material respects.

If a corporation does not file its annual GAAP financial statement report, or does not present auditable records within 90 days of the Auditor of State’s determination of unauditability:

- The Chief Auditor will consult with the Chief Deputy Auditor. The Chief Deputy Auditor will determine whether to request the Legal Division to issue a subpoena for the accounting records.
- IPA firms should contact the Regional Chief Auditor regarding these matters

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

**OTHER LAWS AND REGULATIONS GENERAL
VARIOUS ENTITY TYPES**

1-18 Compliance Requirement: Ohio Rev. Code § 9.833, ~~§ 2744.08~~ and § 305.172 - Health Care Self Insurance^{52 53}

Summary of Requirement: Ohio Rev. Code § 9.833 requires individual, self-insured governments or joint self-insured health-care programs to calculate (i.e., reserve⁵⁴) amounts required to cover health care benefit liabilities. (Health care insurance includes, but is not limited to health care, prescription drugs, dental care and vision care.) It also requires programs to prepare a report, reflecting those reserves (i.e., liabilities) and the aggregate of disbursements made to pay self-insured claims, legal and consultant costs during the preceding fiscal year. This report is not filed with any office, including the Auditor of State; the government should make it available upon request. Programs must prepare (i.e. obtain) and maintain a certified audited financial statement and a report of amounts reserved for the program and disbursements made from such funds. The program administrator must provide the report to the Auditor of State. The program must include a contract with a certified public accountant and a member of the American Academy of Actuaries for the preparation of the written evaluations described in this paragraph. (See bulletin 2011-008)

The provisions regarding the self-insurance programs do not apply to an individual self-insurance program created solely by municipal corporations. For this purpose, "municipal corporation" means all municipal corporations, including those that have adopted a charter under the Ohio Constitution.

An actuary must certify that the amounts reserved are fairly stated in accordance with sound loss reserving principles. The actuary must be a member of the American Academy of Actuaries.

Individual governments subject to this requirement must establish an internal service fund to account for this activity.

Per Ohio Rev. Code § 9.833(E), some of the aforementioned requirements do not apply to municipalities. ~~See the matrix appended to Auditor of State Bulletin 2001-005 regarding which provisions apply to various government types. Ohio Rev. Code § 9.833 applies to school districts.~~ Note: Auditors should refer to Auditor of State Bulletin 2011-008 for additional guidance.

In determining how the government ensures	What control procedures address the	W/P
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⁵² FYI: Ohio Rev. Code § 9.833(D) also permits subdivisions to procure group life insurance for its employees in conjunction with an individual or joint self-insurance program. However, neither a government nor a pool can self-insure for life insurance. (That is, a government must purchase life policies from commercial insurers.)

⁵³ Ohio Rev. Code § 305.172 and Ohio Rev. Code § 9.833(B)(2), permit political subdivisions and boards of county commissioners that provide health care benefits for their officers or employees to establish and maintain an individual health savings account program as part of their self-insurance program. These accounts must be maintained in accordance with section 223 of the Internal Revenue Code [26 U.S.C. § 223]. Public moneys may be used to pay for or fund federally qualified high deductible health plans that are linked to health savings accounts or to make contributions to health savings accounts. Auditors should not audit compliance with Internal Revenue Code regulations governing health care savings accounts. Rather, be aware that such accounts may be included in self-insurance activity accounted for in the internal service or other appropriate fund as permitted by statute.

⁵⁴ “Reserve” in this context means liabilities measured in accordance with accepted actuarial principles.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Subdivisions⁵⁵ (except municipalities, ~~townships, and counties~~) must establish an internal service fund to account for health self-insurance activity. Determine if the subdivision established the required fund.

Inspect the actuary’s certificate (i.e. opinion) that the amounts reserved conform to accepted loss reserving standards. (This requirement does not apply to municipalities, ~~townships or counties~~.)

Test information the subdivision submitted **to the actuary** to determine this information is supported by the client’s accounting or other applicable records. Testing information the client provides to the actuary⁵⁶ when the actuary’s liability calculation is accrued as a GAAP liability⁵⁷ or presented in a cash-basis entity’s notes.

Determine whether the actuary’s opinion language (including the scope of the work) generally complied with the example described in the “Actuarial Opinions” section of Auditor of State Bulletin 2001-005.

Consider whether any qualification in the actuary’s report affects the financial statement opinion or indicates noncompliance with Ohio Rev. Code § 9.833.

Determine if a cash-basis (or AOS basis) government’s audited statements disclose self insurance activity based on the example disclosure in Bulletin 2001-005. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.)

⁵⁵ Ohio Rev. Code § 9.833 and § 2744.01 define a subdivision as any municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than the State. As used in Ohio Rev. Code § 9.833, a “political subdivision” also includes the entity types described in Ohio Rev. Code § 3905.36.

⁵⁶ AU-C 620 clarifies that the *Specialist* standard only applies to a specialist the auditor employs or contracts with. Auditors are responsible for testing the liability an actuary computes on behalf of the auditee using the *Evidence* standard in AU-C 500.

⁵⁷ As Bulletin 2001-005 describes, actuarial principles for measuring these liabilities are similar but not identical to GAAP requirements per GASB 10. A government can use the actuarially-computed liability in its financial statements if it does not materially differ from GAAP measurement requirements.

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

1-19 Compliance Requirement: Ohio Rev. Code § 2744.081 - Liability Self Insurance

Summary of Requirement: This section requires joint self-insurance programs (such as governmental self-insurance pools) insuring against judgments, settlement of claims, expense, loss and damages that arise, or are claimed to have arisen, from an act or omission of the subdivision or any of its employees and to indemnify or hold harmless the subdivision’s employees, to reserve⁵⁸ amounts to cover potential costs. It also requires the program to prepare a report, reflecting those reserves (i.e., liabilities) and the aggregate of disbursements made to pay self-insured claims, legal and consultant costs during the preceding fiscal year. This report is not filed with any office, including the Auditor of State; it should be retained by the government and be made available upon request.

An actuary must certify that the amounts reserved are fairly stated in accordance with sound loss reserving principles. The actuary must be a member of the American Academy of Actuaries.

The aforementioned requirements apply only to governmental risk pools or other joint governmental liability insurance programs.

Note: Auditors should refer to Auditor of State Bulletin 2001-005 for additional guidance.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Determine whether a report presenting the actuarially-measured liabilities and disbursements during the year was obtained.

Inspect the actuary’s certificate that the amounts reserved conform to accepted loss reserving standards.

Test information the client submitted to the actuary to determine this information is supported by the client’s accounting or other applicable records. Testing information the client provides to the actuary is necessary⁵⁹ when the actuary’s liability calculation is accrued as a GAAP liability⁶⁰ or presented in a cash-basis entity’s notes.

⁵⁸ “Reserve” means liabilities measured in accordance with accepted actuarial principles.

⁵⁹ AU-C 620 clarifies that the *Specialist* standard only applies to a specialist the auditor employs or contracts with. Auditors are responsible for testing the liability an actuary computes on behalf of the auditee using the *Evidence* standard in AU-C 500.

Determine whether the actuary’s opinion language (including the scope of the work) generally complied with the example described in the “Actuarial Opinions” section of Auditor of State Bulletin 2001-005.

Consider whether any qualification in the actuary’s report affects the financial statement opinion or indicates noncompliance with Ohio Rev. Code § 2744.081.

Determine if a cash-basis (or AOS basis) government’s audited statements disclose self insurance activity based on the example disclosure in Bulletin 2001-005. (For cash-basis entities, an inability to adequately calculate and present the liability may constitute a qualification related to the adequacy of disclosure.)

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

⁶⁰ As Bulletin 2001-005 describes, actuarial principles for measuring these liabilities are similar but not identical to GAAP requirements per GASB 10. A government can use the actuarially-computed liability in its financial statements if it does not materially differ from GAAP measurement.

1-20 Compliance Requirement: Ohio Rev. Code § 117.13(C)(3) – Allocating Audit Costs

Summary of Requirements: Local governments can charge audit costs to funds other than the general fund only if the charges are properly allocated to those funds.

CAUTION: This may not be material; if this is immaterial you may reduce or eliminate testing.

Ohio Rev. Code § 117.13(C)(3) states the fiscal officer may distribute such total cost of the audit to each fund audited in accordance with its percentage of the total cost.

Auditor of State Bulletin 2009-011 includes the following guidance for allocating audit costs to funds:

The fiscal officer should determine which funds should be charged a percentage of the audit costs. The Auditor of State is of the opinion that most operating funds of a local government, including utility funds (i.e., water, sewer, electric, refuse), special levy funds, funds that receive gas taxes, and motor vehicle registration fees can be charged a portion of the audit costs.

Other funds of a local government that may be charged a percentage of the audit costs include bond and grant funds. The ability to charge bond funds will depend on the allowable uses defined in the bond legislation. Trust and other funds that receive donations restricted to specific purposes will require analysis by the fiscal officer of the restrictions imposed by the donor and/or trust agreement to determine if any audit costs may be charged to those funds. Agency funds, because of their custodial nature, should not be charged for any share of the cost of an audit for the fiscal officer’s role as the fiscal agent.

In determining a percentage of total cost that may be charged to a fund, any reasonable and rational method such as a percentage of the fund’s revenue or expenditures compared to the total revenue or expenditures for all funds, excluding agency funds, would be acceptable. A local government’s indirect cost allocation plan may also be an acceptable method for allocating audit costs.

For grant funds, the costs of audits are allowable if the audits were performed in accordance with the ~~Single Audit Act, and Circular A-133~~ OMB Super Circular, "Audits of States, Local Governments, and Non-Profit Organizations." Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or sub-recipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs. Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

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

laws and regulations		
<ul style="list-style-type: none">• Management’s communication of changes in laws and regulations to employees		

Suggested Audit Procedures - Compliance (Substantive) Tests:

Determine if the government charges funds other than the general fund for audit costs. If so, review documentation supporting how the government determines a reasonable basis for allocating audit costs to funds other than the general fund. (Lack of formal documentation should not result in a citation or finding for adjustment if the allocation is reasonable.)

Determine if the government allocates audit costs to grant funds. If so, review documentation supporting the government received a Single Audit and allocated the audit costs to grant funds in accordance with Federal guidelines.

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

If the compliance attributes listed in 1-21 below were tested during payroll substantive testing, no additional tests are needed.

1-21 Compliance Requirements: Vacation and sick leave

Vacation leave:

Ohio Rev. Code § 325.19 and § 3319.084 prescribe vacation benefits for **county** and **school non-teaching employees**, respectively. See tables below.

The governing authorities of other local governments set vacation policy by statute, ordinance or charter. However, collective bargaining agreements supersede local statutes, ordinances or charters.

Ohio Rev. Code § 325.19 —County vacation leave

Ohio Rev. Code § 325.19 Years of service	Vacation leave earned
<1	0
≥1 but <8	80 hrs. per year
≥8 but <15	120
≥15 but <25	160
≥25	200

Note: Employees of county departments of jobs and family services accrue vacation pursuant to Ohio Rev. Code § 124.13. However, this Section prescribes the same vacation accruals as does Ohio Rev. Code § 325.19, above. Additionally, if a separation from county service occurs in connection with the lease, sale, or other transfer of all or substantially all the business and assets of a county hospital organized under Ohio Rev. Code Chapter 339 to a private corporation or other entity, the county shall have no obligation to pay any compensation with respect to unused vacation leave accrued to the credit of an employee who accepts employment with the acquiring corporation or other entity, if at the effective time of separation the acquiring corporation or other entity expressly assumes such unused vacation leave accrued to the employee's credit.

Ohio Rev. Code § 3319.084-- School nonteaching employee vacation leave

Ohio Rev. Code §3319.084 Years of service	Minimum vacation leave earned
<1	0
≥1 but <10	2 weeks
≥10 but <20	3 weeks
≥20	4 weeks

Ohio Rev. Code § 9.44 generally requires an Ohio local government to include an employee’s prior service with the State or other Ohio local governments when computing vacation leave. However, there are exceptions to this general rule. While this would rarely, if ever, be significant, if this applies to an employee’s leave you are testing, see Ohio Rev. Code §9.44 regarding the exceptions.

Sick leave:

Ohio Rev. Code § 124.38 prescribes 4.6 hours of sick leave for each 80 hours of completed service (120 hours / year), applicable to **county** (except for superintendent and management employees of County Boards of Development Disabilities defined in Ohio Rev. Code § 5126.20), **city, and civil service township service**. Ohio Rev. Code § 124.38 also applies to employees of any **state college or university**, and **certain board of education employees** (board of education employees for whom sick leave is not provided by Ohio Rev. Code § 3319.141).

Ohio Rev. Code § 3319.141- Sick leave for **school employees**: Earn 1¼ days per month (15 days / year), accumulating to a maximum of 120 days. However, a school board may adopt a policy permitting accumulations > 120 days. The requirements of Ohio Rev. Code § 3319.141 do not apply to substitutes, adult education instructors who are scheduled to work the full-time equivalent of less than one hundred twenty days per school year, or persons who are employed on an as-needed, seasonal, or intermittent basis.

Per Ohio Rev. Code § 124.39, employees governed by Ohio Rev. Code § 124.38 and employed for ≥ 10 years, are eligible for payment of 25% of their unused sick leave balance, up to a maximum of 30 days, upon retirement.

Note: These sections describe minimum vacation and sick leave. Governments generally may provide more than the minimum. These sections also prescribe procedures for paying the employees' accumulated leave balances upon separation from service.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Auditors should consider whether governments have vacation and sick leave policies placed in operation and have historically demonstrated effective internal controls over payroll and related compliance requirement. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with vacation and sick leave compliance requirements.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

For GAAP entities, it is usually efficient to include these procedures when testing the financial statement liability for compensated absences.

1. Obtain a copy of resolutions, ordinances or collective bargaining agreements setting vacation leave. Maintain an up to date copy in the permanent file.
2. Determine the procedures followed for recording the accrual and use of sick leave and vacation. (If leave accrual is automated and online with standing data, very limited recomputations of additions to leave balances should suffice for testing credits (i.e. additions) to leave accrual.)
3. Review the calculations of employees' leave balances credited and used, including appropriate leave forms. Determine whether the computations use the hours the Ohio Revised Code, local legislation or collective bargaining agreements authorize.
4. Determine if any employees left service this year? For a representative number of employees who left service determine whether the computations use the hours the Ohio Revised Code, local legislation or collective bargaining agreements authorize.

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

If the compliance attributes listed in 1-22 below were tested during payroll substantive testing, no additional tests are needed.

1-22 Compliance Requirements: Internal Revenue Code (IRC) Chapter 26 [26 U.S.C.] - Collection of Income Tax at Source on Wages; 26 U.S.C. § 3401 through 3406:

- §3401: Definitions;
- §3402: Withholding of income tax from wages;
- §3403: Employers liable for payment of the tax deducted and withheld;
- §3404: Return of amount deducted and withheld shall be made by appropriate officer of the governmental employer;
- §3405: Withholding on pensions and annuities;
- §3406: Backup withholding

- 26 U.S.C. §3102(a): Deduction of [Medicare] tax from wages;
- 26 U.S.C. §132: Exclusion of certain fringe benefits from gross income;
- Internal Revenue Regulations (26 C.F.R.):
 - §1.61-21: Taxation of fringe benefits;
 - §1.6041-1: Reporting of income aggregating \$600 or more [i.e., 1099s-MISC]⁶¹;
 - §1.6041-2: Reporting of wage income aggregating \$600 or more [i.e., W-2s];
 - §1.6041-3: Various exclusions;
 - §1.6041-6: Time and place for filing forms 1099 and 1096;
 - §1.6050E-1: Income tax refund reporting.
- Ohio Rev. Code §5747.06 - Collection of Ohio income tax at source.
- Various local ordinances require withholding on wages earned in the particular municipality. These should be consulted for the requirements.

Summary of Requirement:

These sections of the various tax codes require the employing government to withhold federal, state, and local income and employment-related taxes (such as Medicare). They also require the government to report those tax matters to the appropriate tax authorities and to the recipients. Certain of these sections require consideration of whether employer-provided “fringe” benefits, such as use of government automobiles for private purposes, constitute taxable income to be reported and withheld upon.

Effective for tax years beginning after December 31, 2009, Section 2043 of the Small Business Jobs and Credit Act of 2010 (Public Law No. 111-240) removed employer-provided cell phones from the definition of “listed property” in the tax code. While cell phones are still subject to being a taxable benefit, the new legislation removes the special record-keeping requirements of listed property. However, employers still should have a policy prohibiting any more than a de minimus personal use of government-owned cell phones.

⁶¹ All payments to attorneys of \$600 or more that are not otherwise reported (e.g., on form W-2 for attorneys who are employees) must be reported on form 1099-MISC.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

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

Risk of material noncompliance is elevated when governments are in financial distress and may not pay withholdings when due.

Note: See the *Ohio Compliance Supplement Implementation Guide* regarding IRS Referrals.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Note: It is normally efficient to integrate step 1 below with payroll testing.

1. When testing payroll, determine if the government withholds state, federal and local income taxes.
2. Inquire if the government provided any employees with potentially taxable fringe benefits, such as the use of a government-owned vehicle, or an auto or uniform allowance⁶²? If so, inquire how they compute the benefit amounts reflected in the affected employees' Forms W-2? Review 1 or 2

⁶² The IRS rules regarding whether fringe benefits are taxable can be complex, and subject to frequent revision, such as by interpretive private letter rulings. For example: Uniforms are usually nontaxable if they meet these two tests: (1) the employee must be required to wear the article of clothing while at work (2) the item cannot be adaptable to everyday wear. Many commonly-required work clothes are adaptable (heavy-duty jeans, etc.) and would therefore normally be taxable benefits. In private letter* ruling 201005014, the IRS determined employer-provided clothing is a nontaxable benefit for employees of a political subdivision of a state. However, the IRS cautioned us that the private letter ruling applied only to the narrow circumstances described therein and ought to not be construed to mean government-provided clothing is generally nontaxable. Therefore, governments should obtain IRS publications or advice from a qualified tax practitioner in determining whether benefits are taxable. It is impractical to include this guidance in the Ohio Compliance Supplement.

* Letter Rulings may not be cited as a precedent by any government other than the one which requested the ruling; however, your legal advisor might find it useful to review.

employees' W-2s that include these amounts.

3. Inquire if the government paid any independent contractor (other than a corporation) \$600 or more during this year? If so, review a few issued Forms 1099s.
4. If the government assesses an income tax, scan a few Forms 1099G for municipal income tax refunds exceeding \$10 each.

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

If the compliance attributes listed in 1-23 below were tested during payroll and nonpayroll substantive testing, no additional tests are needed.

1-23 Compliance Requirement:

- Ohio Rev. Code § 145.01, 145.03, 145.47, 145.48, and Ohio Administrative Code Rule 145-1-26 - **Public Employees Retirement System (PERS)**, definitions, exclusions, exemptions and rates of contributions.
- Ohio Rev. Code § 742.01, 742.02, 742.31 to 742.34 - **Police and Fire Disability and Pension Fund**, definitions, rates of contributions and reporting requirements.
- Ohio Rev. Code § 3307.01, 3307.35, 3307.51, 3307.53, 3307.56, and 3307.691 - **State Teachers Retirement System (STRS)**, definitions, employment of retired members, contribution rates. (These sections also apply to community school employees.)
- Ohio Rev. Code § 3309.23, 3309.341, 3309.47, 3309.49 and 3309.51⁶³ - Membership in **Public School Employees Retirement System (SERS)**, employment of retired members, contribution rate, payment of expense fund. (These sections also apply to community school employees.)

Summary of Requirement: These sections require governments to enroll most of their employees⁶⁴ in the appropriate retirement system, and to withhold from the employees’ wages, or pay on behalf of the employees, a certain percentage of earned wages as defined and to pay over to the appropriate system the amounts withheld, matched with an appropriate percentage of employer matching contributions.

PERS withholdings should be taken out prior to deducting medical, dental, vision, and flexible spending (Ohio Rev. Code § 3309.23 and Ohio Administrative Code Rule 145-1-26).

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: Auditors should consider whether governments have historically remitted employee and employer contributions to the appropriate retirement systems timely and demonstrated effective internal controls over payroll. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with retirement system compliance requirements.

Risk of material noncompliance is elevated when governments are in financial distress and may not pay the contributions when due.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
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⁶³ The Secretary of SERS certifies to ODE amounts ODE is to withhold from community school foundation payments for pension costs.

⁶⁴ Independent contractors performing the same duties as school employees as defined in Ohio Rev. Code § 3307.01, such as contract teachers teaching in a classroom, may also be subject to membership in the STRS retirement system.

<ul style="list-style-type: none"> • Policies and Procedures Manuals, • Knowledge and Training of personnel • Time summaries / timecards • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures - Compliance (Substantive) Tests:

1. When testing payroll transactions, determine if the government withheld pension amounts at the proper rate.⁶⁵ ⁶⁶ (Note: PERS withholdings must be taken out prior to medical, dental, vision and flexible spending account deductions.)
2. Scan payroll ledgers. List a few employees for which no pension is withheld. Ask the CFO to provide documentation or explanation as to why there is no withholdings for these employees.
 Note: Third party contractors who provide pupil services (i.e. therapists and therapy assistants, pathologists, audiologists, social workers, nurses) are required members of STRS per STRS.
3. Examine selected payments of the withholdings from the government to the pension system. (This is an important step. Governments in financial distress occasionally resort to not paying withholdings when due. While unusual, this circumstance, even if not quantitatively material would usually be qualitative material noncompliance.)

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

⁶⁵ Pursuant to 26 U.S.C. § 3121(b)(7) ~~IRC Section 3121(b)(7)~~, AOS considers employees of community school management companies who perform teaching and administrative services to be members of STRS or SERS. Therefore, the mandatory employee and employer contributions must be paid into the appropriate State retirement systems. We have therefore previously cited management companies that *also* deducted and paid contributions to social security. AOS formally requested the IRS to confirm that it would defer to the Ohio Retirement Systems’ determination and consider the community school employees exempt from social security due to their participation in a qualified retirement plan. However, the IRS declined to confirm this exemption. Therefore, management companies may determine to risk potential IRS penalties and deem an employee to be an employee of the management company rather than the school. Contributions should continue to be remitted to the appropriate Ohio Retirement Systems if management company Boards determine the employees are members of an Ohio Retirement System. Failure to do so will still result in non-compliance citations. **However, auditors should no longer issue noncompliance citations for additional contributions to the social security system.**

⁶⁶ Per Ohio Admin. Code § 145-1-26 (G)(9) payments made as fees or commissions that are fixed charges or calculated as a percentage of an amount not directly related to work or services performed are not "earnable salary". Ohio PERS (OPERS) has determined that payments for meetings such as those made to Village Council should not be used for a basis of OPERS contributions. Therefore, any person receiving per meeting payments (i.e., board of public affairs, joint fire districts, cemetery districts) should be subject to the same determination.

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SCHOOL DISTRICTS

Revised: HB 59, 129th GA
Effective: 7/1/14
And
HB 367, 130th GA
Effective: 3/23/15

1-24 Compliance Requirement: Ohio Rev. Code § 3317.01, 3317.02, 3317.03 (E), 3313.981 (F), 3313.48, and 3321.04; Ohio Admin. Code § 3301-35-06 - School District Average Daily Membership.

Summary of Requirements:

Schools are funded based on annualized enrollment as opposed to daily attendance. However, there is an important nexus between student attendance and enrollment for Foundation funding purposes. Students are considered as enrolled in a school until the last day of attendance or until permissible student withdrawal can occur. Schools must provide documentation that clearly demonstrates students have participated in learning opportunities. Students with excused absences remain enrolled and will be funded. Students with unexcused absences, however, must be withdrawn upon being legally deemed truant under the school's policies and related Ohio truancy statutes.

Beginning in the 2014-2015 school year, traditional school districts, and joint vocational school districts must comply with minimum hours of instruction instead of a minimum number of school days each year. Average Daily Membership (ADM) is a material variable used to compute school districts' funding, pursuant to Ohio Rev. Code § 3317.022(A). Ohio Rev. Code § 3317.03 defines ADM. Pursuant to Ohio Rev. Code § 3317.03, a student ~~must be enrolled and attending~~ school during this official count week or be excused for reasons enumerated in Administrative Rule in order to be included in the October ADM count. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those handicapped pupils currently receiving home instruction. ~~the school superintendent shall report to the state board of education as of the last day of October, March, and June of each year the enrollment of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under Ohio Rev. Code § 3313.64 or § 3313.65.~~

The new counts will be based on the annualized full-time equivalent (FTE) enrollment of each student. School districts will be able to continuously update this information, but must report actual FTE information by the last day of October, March, and June. A student's FTE will be determined based on the individualized calendar/class schedule each student is assigned to for the school year and their enrollment and withdrawal dates.

Enrollment begins "on the date on which the school has both received the documentation of the student's enrollment from a parent and the student has commenced learning opportunities offered by the district." Learning opportunities are defined as both classroom-based and nonclassroom-based learning opportunities overseen by licensed educational employees.

A district must withdraw the student for funding purposes when:

1. the district receives documentation terminating enrollment of the student,
2. the district is provided documentation of a student's enrollment in another school, and
3. The student fails to participate in learning opportunities and has not received an excused absence for one hundred and five continuous hours. If a student is withdrawn from the district for failure to

participate in learning opportunities under division (C)(1)(a)(v) of this section and the district board determines that the student is truant, the district shall take the appropriate action required under sections 3321.19 and 3321.191 of the Revised Code.

- Important Note: HB 367 amended #3 above and removed the 105 hour rule from statute, effective March 23, 2015.

The ADM used in the funding formula will continue to adjust as information is updated throughout the year.

Schools must comply with minimum hours of instruction instead of a minimum number of school days each year (Ohio Rev. Code § 3313.48).

The minimum “open for instruction” hours are:

- 455 hours for students in half-day kindergarten;
- 910 hours for students in full-day kindergarten through Grade 6; and
- 1,001 hours for students in Grades 7-12

Open for instruction includes time when the district or building is open and all students are participating in:

- Regularly scheduled classes;
- Supervised activities, such as assemblies;
- Approved education options; and
- Co-curricular activities during the scheduled school day.
- As part of the minimum hours, districts and schools may use:
- Up to two equivalent days for the purpose of individualized parent-teacher conferences and reporting periods;
- Up to two equivalent days for the purpose of professional meetings of teachers; and
- Morning and afternoon recess periods of no more than fifteen minutes each for students in Grades Kindergarten through 6.

Time spent during lunch periods, breakfast periods and extracurricular activities does not count as open for instruction. A schedule must include five days in each week.

Calamity days are no longer applicable. Instead, schools may schedule “excess” hours above the minimum number. Hours missed above the minimum do not have to be made up. However, if a school closes enough that it will fall below the minimum number of hours, the school must extend its scheduled year.⁶⁷

School districts must collect the following data on each pupil during the official ADM count week (FFWO):

- Student name (listed alphabetically)
- Grade level
- Date of enrollment (date pupil enrolled in the counting school)

⁶⁷ One way to make up the hours missed below the minimum required is to use web lessons and blizzard bags (Ohio Rev. Code § 3313.482). Schools will submit plans explaining how they will make up the missed hours, instead of days, up to the equivalent of three scheduled days. Web lessons/blizzard bags may only be used when it is necessary to close the school because of: Disease epidemic; Hazardous weather conditions; Law enforcement emergencies; Inoperability of school buses or other equipment necessary to the school's operation; Damage to a school building; or Other temporary circumstances due to utility failure rendering the school building unfit for school use.

- Status – this is the status code used in EMIS (i.e., most will be 0 = resident student).
- Resident district IRN number (i.e., Most students will be residents of the home school district). The counting school should use the child’s resident school district IRN number for students outside of the district, such as open enrollment students.
- Attending home IRN number and indicator
- Pupil attendance (the attendance documents should indicate each day a student is not in attendance and the reason for the absence).

This data should be part of an attendance record for each student. To complete the attendance status, the person taking attendance must keep an accurate record of those students who are present and those who are absent ~~during the five days of the official count week~~. In addition, each day of absence must be determined to be excused or unexcused. ~~Only days of excused absence count toward the ADM.~~ Under Ohio Admin. Rule 3301-51-13, there are seven reasons for absence to be excused:

1. Personal illness
2. Illness in the family
3. Quarantine of the home
4. Death of a relative
5. Working at home due to absence of parents or guardians (any absence arising because of this shall not extend beyond the period for which the parents or guardians were absent)
6. Observance of religious holidays
7. Emergency or set of circumstances which, in the judgment of the superintendent of schools, constitutes a good and sufficient cause for absence from school.

The school district must determine by contact with the parent or guardian if the reason for absence is one of the seven listed. If the reason for absence is not one of the seven, the student must be marked unexcused for that day ~~and the day does not count toward the ADM for the October count week~~. Written documentation is required for excused absences and should be dated and collected in a timely fashion.

~~For the SSID’s with excused absences, request the representative building attendance officers or EMIS Coordinator to provide access to student attendance records and determine whether the school maintained documentation to support excuses. This may require reviewing attendance data in the school district’s electronic student information system (e.g., DASL, PowerSchool, Progress Books, etc.).~~

Ohio Rev. Code § 2151.011(B)(22) provides an additional list of legitimate excuses authorized as excused absences.

- Excuses for “excused” absences should be available in the school office and with the class list for each attendance teacher. This includes notes from home, phone logs, suspension notices, and other relevant documents.
 - All excuses from parents, and other documents, regardless of format or condition, become official attendance records. Ohio Rev. Code § 3317.031 requires, “this membership record shall be kept intact for at least five years and shall be made available to the State Board of Education or its representative in making an audit of the average daily membership or the transportation of the district.”

All notes and other verification information relative to excused absences and tardiness should be organized by attendance period in a folder. Suspension or expulsion are examples of other types of verification that should be included in the folder. If a telephone call is the means of confirming excused absences, a copy of the log should be included in the folder. The log should contain the date of the

absence, the date of the call, the name of the person making the call, the name and relationship of the person contacted, and the reason for the absence.

~~A school district's calendar is also an important component in school funding. Ohio Rev. Code § 3317.01 requires a school district to meet the minimum number of days or hours for a school to be open for instruction in order to be eligible for foundation payments. Ohio Rev. Code § 3313.4 provides that each school shall be open for instruction with pupils in attendance, for not less than one hundred eighty two (182) days in each school year, which may include the following²²~~

- ~~• Up to four school days per year in which classes are dismissed one half day early or the equivalent amount of time during a different number of days (i.e., 2 full school days) for the purpose of individualized parent teacher conferences and reporting periods;~~
- ~~• Up to two days for professional meetings of teachers when such days occur during a regular school week and schools are not in session;~~
- ~~• The number of days the school is closed as a result of public calamity, as provided in Ohio Rev. Code § 3317.01.~~

~~In accordance with Ohio Admin. Code § 3301-35-06, the required number of instructional hours in a school day are as follows:~~

- ~~• Students in kindergarten shall be offered at least two and one half hours per day of classes, supervised activities or approved educational options, excluding the lunch period. [Ohio Admin. Code § 3301-35-06(C)];~~
 - ~~○ Districts that receive Disadvantaged Pupil Impact Aid funds for all day kindergarten shall offer five hours per day, excluding the lunch period. [Ohio Admin. Code § 3301-35-06(C)]~~
- ~~• The school day for students in grades one through six shall include scheduled classes, supervised activities, or approved educational options for at least five hours, excluding the lunch period. [Ohio Admin. Code § 3301-35-06(D)]~~
- ~~• The school day for students in grades seven and eight shall consist of scheduled classes, supervised activities (excluding interscholastic athletics), or approved educational options for at least five and one half hours, excluding the lunch period. [Ohio Admin. Code § 3301-35-06(E)]~~
- ~~• The school day for students in grades nine through twelve shall consist of scheduled classes, supervised activities (excluding interscholastic athletics), or approved educational options for at least five and one half hours excluding the lunch period. [Ohio Admin. Code § 3301-35-06(F)]~~

~~Under limited circumstances, the superintendent of public instruction may provide a written waiver to waive the required minimum number of days or hours for a school district to be open for instruction. [Ohio Rev. Code § 3317.01(B)]~~

~~Ohio Rev. Code § 3317.03 (E) requires a school district to accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. This code provision further delineates which students should and should not be included in a school district's ADM count on the basis of residency, school attendance, and proficiency testing attendance.~~

Each school district is responsible for accurately reporting statistics to the Ohio Department of Education's Educational Management Information System (EMIS), which uses the statistics to compute the school district's ADM. Of the many statistics required to be reported, one of the most important is the determination of school attendance. Pursuant to Ohio Rev. Code § 3317.03 (E), a school district's attendance for ADM purposes is arrived at by determining the number of students *enrolled* during the applicable count week. The law requires each district to certify its formula ADM once annually, for the

~~first full week of October. (Ohio Rev. Code §3317.01, 3317.02, and 3317.03). Ohio Rev. Code §3317.03 (E) also defines *enrolled* to include students with disabilities currently receiving home instruction, in attendance, or not attending but having an excused absence for a valid legal reason.~~

When counting the number of students enrolled for ADM purposes, Ohio Rev. Code §3313.981 sets the requirements for the inclusion and exclusion of students who live in one district but who are paying “tuition” (i.e. *formula funding* defined in Ohio Rev. Code §3317.08) and enrolled in another district. A student should be included in the ADM count of the district in which he/she resides and not the district in which he/she pays tuition to attend.

Valid legal reasons for not attending Ohio public schools are set forth in Ohio Rev. Code §3321.04. Any reason not delineated in this code provision shall be deemed unexcused and the pupil should not be reported as enrolled for that day for ADM purposes.

Average daily membership (ADM) measures the number of students in each district. All students are counted in the ADM of the district in which they reside. ~~The current year October count is used to derive the formula ADM for all districts.~~

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Document and evaluate procedures for ~~determining assigning students to the school district’s~~ instructional calendars. ~~Select a representative number of students and determine whether they were assigned to a school calendar that is reflective of their daily course schedule as evidenced by the documentation in their student file. As part of this evaluation, determine whether:~~

- ~~the school district was open for instruction for a minimum of 182 days during the school year *minus* up to the equivalent of 2 full school days for individualized parent teacher conferences, 2 days for professional development, and a maximum of five⁶⁸ calamity days. HB 416 proposes~~

⁶⁸ Calamity days are days a school is closed due to: (1) disease epidemic, (2) hazardous weather conditions, (3) inoperability of school buses or other necessary equipment, (4) damage to a school building, (5) law enforcement emergencies or (6) other temporary circumstances because of a utility failure that renders a building unfit for use. School districts are permitted to shorten any number of school days by up to two hours due to hazardous weather conditions and may pay teachers when schools are closed due to hazardous weather or other calamity. Ohio Rev. Code §3313.88 (on 7/1/2014, 3313.88 will be renumbered to 3313.482) allows for completion of make-up days via web access and/or “blizzard bags”.

adding up to four more calamity days and SB269 proposes adding up to three more calamity days for schools to use in the 2013-14 school year. Auditors should refer to the actual language of the final adopted legislation to determine if it supports an extended number of calamity days for the school year under audit.

- the days during the school year represented “full days” of pupil instruction (e.g., a full day for students in grades one through six constitutes a minimum of 5 instructional hours, in grades 7-12 a minimum of 5.5 instructional hours constitutes a full day).

If the school district was open for instruction for less than the required minimum number of days or hours, determine whether the school district received a written waiver from the superintendent of public instruction. *Authorized waivers are rare and should always be evidenced in writing.*

Document and evaluate procedures for enrolling and withdrawing pupils, and for processing excused student absences. As part of this evaluation, determine whether the district’s policies include sufficient procedures for identifying and tracking all student for whom the district is financially responsible; (a) students residing in and attending district schools, (b) students attending schools in other districts through open enrollment and contractual arrangements, (c) students placed by the courts in facilities outside the district, (d) students attending community schools, and (e) students attending non-public schools through one of the scholarship programs. Also, determine whether the school’s student withdrawal policy includes sufficient guidance to EMIS and other administrative personnel for monitoring student absences, identifying truant students, and determining the appropriate timeframe within which personnel should begin truancy proceedings and withdraw a student.

~~Compare final counts per the EMIS system with the count sheets during the October ADM count week. Seek explanations for any significant differences or adjustments.~~

For students with excused absences, select five and request the representative building attendance officers or EMIS Coordinator to provide access to the students’ attendance records, including the students’ files, and determine whether the school maintained documentation to support excuses. This may require reviewing attendance data in the school district’s electronic student information system (e.g., DASL, PowerSchool, Progress-Books, etc.).

Select a representative number of students that withdrew during the school year. The withdrawal list may be obtained by the school through EMIS or the school’s student attendance database.

- Identify when students were withdrawn and determine whether it was timely (e.g., waiting several weeks or more to withdraw a student is not timely) based on evidence in the student’s file.
- Determine whether the appropriate EMIS withdrawal code was used (refer to Chapter 2 of the EMIS Manual) to withdraw the student based on evidence in the student’s file. Chapter 2 of the EMIS Manual provides examples of the types of documentation required to be obtained and maintained by the school for each type of withdrawal code.
- Recalculate the FTE based upon the supporting documentation contained in EMIS and the student file for the selected students to ensure it is reasonable based upon the first day of school and the last date the student attended.
- Compare the dates determined in the steps above to EMIS or other student attendance database reports. Inquire with management about any significant differences or adjustments. Consider reporting noncompliance or other client communication for any significant unexplained variances.
 - A school should not wait until March to remove a student from its enrollment if the student withdrew in October. Significant delays in reporting student withdrawals constitutes noncompliance. Likewise, a student with excessive truancy should have

received multiple communications from the school. Schools should maintain a daily call log or obtain timely excuses from the parent, guardian, or adult-aged student for excessive absenteeism that does not result in removal of a student from enrollment.

Select a representative number of students that enrolled during the school year. The new enrollment list may be obtained by the school through EMIS or the school's student attendance database.

- Identify when students were enrolled and began participating in learning opportunities and determine whether it was timely (e.g., again, waiting several weeks or more is not timely) based on evidence in the student's file.
- Determine whether the student was assigned to the appropriate student schedule calendar based upon the student's coursework as documented in the student file.
- Recalculate the FTE based upon the documentation contained in EMIS and the student file for the selected students to ensure it reasonable based upon the student's first day of participation in learning opportunities and the last day of the school year.
- Compare the dates determined in the steps above to EMIS or other student attendance database reports. Inquire with management about any significant differences or adjustments. Considering reporting noncompliance or other client communication for any significant unexplained variances.

Perform Analytical Procedures such as:

- Comparing the number of students enrolled as of October to the prior two years. Investigate any unusual or significant changes. All material changes should relate to events such as increased housing in an area, large businesses moving in or out of a school district, and any other major event that may affect enrollment.
- Compare this year's counts for selected building with previous periods. Ask for management's explanation for any significant differences.
- Determine if other student headcount lists exist that were prepared independently from those responsible for preparing the ADM counts. (Corroborating evidence from independent sources is sometimes more reliable.) Compare these counts to the ADM count for reasonableness. If independently prepared counts are not available, determine if the school district maintained counts from other weeks during the school year. If so, haphazardly select another count to compare to the October count week for reasonableness.

Where the number of students paying tuition under Ohio Rev. Code §3317.08 is expected to be significant, inspect documentation that indicates students who are paying tuition to attend are excluded from the school district's ADM (consider using analytical procedures).

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

COMMUNITY SCHOOLS

1-25 Compliance Requirement: Ohio Rev. Code § 3313.64, 3314.03, and 3314.08 – Community School Funding.

Revised: HB 59, 129th GA

Effective: 7/1/14

Summary of Requirements:

Community schools are funded based on annualized enrollment, not attendance. However, there is an important nexus between student attendance and enrollment for Foundation funding purposes. Students are considered as enrolled in a community school until the last day of attendance or until permissible student withdrawal can occur. Community schools must provide documentation that clearly demonstrates students have participated in learning opportunities, either through attendance or evidence that a student has logged into an online learning system. Students with excused absences remain enrolled and will be funded. Students with unexcused absences, however, must be withdrawn upon reaching 105 consecutive hours of non-attendance.

Ohio Rev. Code §3314.08 provides the formula by which Community Schools are funded. Community Schools receive funding from the state through the per-pupil foundation allocation. Unlike city, local, exempted village and joint vocational school districts, Community Schools have no tax base from which to draw funds for buildings and investment in infrastructure. Ohio Rev. Code §3314.191 states that no payments will be made under Ohio Rev. Code §3314.08 during the first year of operations unless certain conditions are met.

Full-Time Equivalence (FTE)

A full-time student is one who attends the entire school day and entire school year; that will result with the student having a FTE of 1.00. Students who attend a Community School for less than the entire year will have an FTE equal to the total days/hours attended divided by the number of days/hours in the school year. Community Schools are funded on a per-pupil FTE basis.

School Options Enrollment System (SOES)

~~SOES is the EMIS subsystem that drives funding for community schools. It is a Web application administered by the Ohio Department of Education and used by community schools and traditional public schools to enter and review data used to flow funds to community schools. Community school personnel enter data in the SOES system and traditional public school personnel review, verify or challenge that data.~~

Pursuant to Ohio Rev. Code §3301.0714, schools must enter data concerning the enrollment and attendance of their students into ODE's Education Management Information System (EMIS), which ODE recently rewrote and consolidated with the School Options Enrollment System (SOES). The EMIS and SOES applications are used by all schools to enter and review student enrollment and demographic data to form the basis for the flow of funds to community schools and STEM schools. Community school personnel enter data in the EMIS and traditional public school personnel review, verify, or challenge that data in the SOES subsystem.

Reporting Attendance in SOES

Ohio Rev. Code §3313.64(J) states that the treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report listing the names of each child in the permanent or legal custody of a government agency or person other than the child's parent and each

child who resides in a home, who attended the district's schools during the preceding six calendar months. For each child, the report shall state the duration of attendance of that child, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires. Upon receipt of this report, the superintendent shall deduct each district's tuition obligations and pay to the district of attendance that amount plus any amount required to be paid by the state.

Ohio Rev. Code §3314.08 requires the board of education of each school district to annually report the number of students entitled to attend school in the district that are actually enrolled in community schools. This section also requires the governing authority of each community school to annually report the number of students enrolled in the community school. For each student, the governing board of the community school must report the city, exempted village, or local school district in which the student is entitled to attend.

Based on these reported numbers, the state Department of Education shall calculate and subtract the appropriate amount of state aid from each school district. The amount subtracted shall be paid to the corresponding community school or to the internet or computer-based community school entitled to receive those funds. When calculating and subtracting the appropriate amount of state aid, the department should take into consideration any enrollment of students in community schools for less than the equivalent of a full school year.

Ohio Rev. Code §3314.03 requires that the contract entered into between a sponsor and the governing authority of a community school state the following:

- that the governing authority will adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student, without a legitimate excuse, fails to participate in one hundred five (105) consecutive hours of the learning opportunities offered to the student;⁶⁹
- that the school will provide learning opportunities to a minimum of twenty-five students for a *minimum* of nine hundred twenty (920) hours per school year.
 - The Ohio Department of Education shall determine each community school student's percentage of full-time equivalency based on the *percentage of learning opportunities* offered by the community school to that student, reported either as number of hours or number of days. ~~A student must attend the community school for the entire school year.~~ However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year. [Ohio Rev. Code §3314.08(HL)(3)]
- that the governing authority will adopt a policy regarding the admission of students who reside outside the district in which the school is located; and
- a financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount of each such year.
- Site-based schools are also permitted to have blended learning opportunities under the authority of Ohio Rev. Code §3302.41 and §3301.079 (K)(1), subject to approval by their sponsor. As defined in Ohio Rev. Code §3301.079 (K)(1), "blended learning" is the delivery of instruction in a combination of time in a supervised, physical location away from home and online delivery where the student has some element of control over time, place, path, or pace of learning. Community schools offering blended learning opportunities must carefully document both the physical attendance of students as well as their participation in online learning opportunities as

⁶⁹ Valid legal reasons for non-attendance are set forth in Ohio Admin. Code §3301-69-02.

verified by log in records. The community school delivering blended learning must also make a declaration of blended learning opportunities to ODE by July 1st of each school year pursuant to Ohio Rev. Code §3302.41(A).

- Beginning in July 2015, ODE will determine the timing of a newly opening community school’s first payment upon the rating of its sponsor under the new Sponsor Evaluation System pursuant to the changes authorized in Am. Sub. HB 555 of the 129th General Assembly and modifications in policy made by ODE in the August 2014 edition of the fiscal year 2014 SOES Manual. ODE retains discretion to begin Foundation payments as early as July for newly opening community schools approved by an exemplary sponsor, so long as the contract and required forms are in place, and the sponsor has notified ODE that the community school will open. Community schools approved by sponsors with a rating lower than exemplary will receive the first monthly payment no sooner than September. AOS believes these legislative and policy changes will help reduce the risk of loss of state Foundation monies due to a community school’s failure to open.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

Note: In assessing the risk of noncompliance, auditors should consider the risk of a community school reporting “ghost” students. If this risk factor is believed to be present, auditors should consider performing an unannounced student head count. AOS auditors should consult with the Chief Deputy Auditor prior to conducting such counts, however, to ensure the necessary staff and resources are available for such a count. Auditors should be conscientious to avoid significant disruption to student classroom activities. ~~the student left after the count week, then the student was properly included in the ADM count. However, if the student actually left prior to the count week, the community school should have withdrawn the student from its enrollment and excluded the student from the ADM count.~~

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

Suggested Audit Procedures - Compliance (Substantive) Tests

Document and evaluate the school’s procedures for:

- Enrolling and withdrawing pupils timely;
- Documenting student absences; and
- Notifying the resident public school of withdrawn students or students truant for more than 105 or more consecutive hours.

As part of this evaluation, determine whether the Community School’s policies include sufficient

procedures for identifying and tracking all students for whom the *community school* is responsible. These students include those: (a) residing in and entitled to attend public schools (b) over the age of 18 that are not residing with a guardian (c) placed by the courts in facilities outside the district, (d) attending other community schools, and (e) that have been absent due to truancy for 105 consecutive hours or greater.

Inquire with community school management about the learning opportunities it offered as part of its operating standards during the audit period. Determine whether the community school offered the minimum 920 hours of learning opportunities. If the community school offered more or less than the required minimum, determine whether the community school reported the accurate number of learning opportunities to the Ohio Department of Education.

Perform the following ~~analytical~~ procedures:

For Brick & Mortar Schools (non-electronic schools)

- Determine whether the brick and mortar school offers blended learning opportunities. If so, review the school's educational plan approved by the sponsor to determine the nature and format of blended learning opportunities. Note: The lack of sponsor approval of blended learning opportunities constitutes noncompliance.
- For community schools offering blended learning opportunities, determine the school's policy for capturing, recording, and maintaining attendance and participation records for both classroom and nonclassroom learning opportunities.
- Select a representative number of community school students that enrolled during the school year. The new enrollment list may be obtained by the community school through EMIS or the school's student attendance database.
 - Identify when students were enrolled and began participating in learning opportunities and determine whether it was timely (e.g., waiting several weeks or more is not timely) based on evidence in the student's file and student management database.
 - Evidence of participation might include indication that student assignments were completed, progress reports were sent to students or their parents/guardians, assessment tests were completed, etc.
 - Recalculate the FTE based upon the supporting documentation contained in EMIS and the student file for the selected students to ensure it is reasonable based upon the first day of school and the last date the student attended.
 - Compare the dates determined in the steps above to EMIS or other student attendance database reports. Inquire with management about any significant differences or adjustments. Considering reporting noncompliance or other client communication for any significant unexplained variances.
- Select a representative number of students from the community school's withdrawal list. The withdrawal list may be obtained by the community school through EMIS or the community school's student management database.
 - Identify when students were withdrawn and determine whether it was timely (e.g., waiting several weeks or more is not timely).
 - Using grade records and/or attendance records, determine the last day students were reported as attending the community school.
 - If a student was reported absent for 105 consecutive hours, determine the date the student should have been withdrawn.
 - Compare the dates determined in the steps above to the EMIS or other student

management database reports. Inquire with management about any significant differences or adjustments. Considering reporting noncompliance or other client communication for any significant unexplained variances.

- *A community school should not wait until March to remove a student from its enrollment if the student withdrew in October. Significant delays in reporting student withdrawals constitutes noncompliance. Likewise, a student with excessive truancy should have received multiple communications from the school to verify the student's absence during the 105-hour period. Community schools should maintain a daily call log or obtain timely excuses from the parent, guardian, or adult-aged student for excessive absenteeism that does not result in removal of a student from enrollment.*
- Consider whether the number of reported students is reasonable considering the size of the facility.
- ~~Determine if other student headcount lists exist that were prepared independently from those responsible for preparing the ADM counts. (Corroborating evidence from independent sources is sometimes more reliable.) Compare these counts to the ADM count for reasonableness.~~
- Based on assessed risk, **consider** visiting school facilities and “informally” counting students on site. (This count must be informal. In other words, do not line up the students and ask them to count off – your count should not intrude on school activities. We realize this will not provide an exact count. Instead you are looking for evidence of obviously material overstatements of ADM/FTE.)

For E-schools

- In addition, select multiple students from the E-school's ~~SOES EMIS~~ or other student management database and compare the reported enrollment date to the latter of the: (1) login date, or (2) date the computer was received.

Note: Students are not enrolled in an E-school until the latter of first login date or the date the computer was received. Students may waive the right to a computer; however, this documentation must be kept on file by the community school. The community school should be able to produce a report that documents login dates. Community schools should also maintain shipping logs (with tracking numbers) from the computer vendor. If the student's parent physically picked up the computer, the community school should have the parent's signature on file to support receipt of the computer.

- Obtain the number of hours reported on the E-school's system (*this is a custom report that the community school will have to generate from their online learning portal or whatever system they use to store student hours*) for login times and non-login hours (e.g., field trips) for selected students. Compare these hours to FTEs reported in ~~SOES EMIS~~ for each selected students for the entire year. Also, compare these hours to the student file and evidence that a student participated during the time enrolled. Such evidence might include indication that student assignments were completed, progress reports were sent to students or their parents/guardians, assessment tests were completed, etc. Inquire with management about any significant differences or adjustments. Considering reporting noncompliance or other client communication for any significant unexplained variances.

Note: This is admittedly a difficult step; however, similar to login sheets, the community school should be able to produce a report of total hours the student claimed as learning time during the year. These hours should include all learning opportunities, not just “seat time”.

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

MUNICIPAL

Moved from Chapter 2**1-26 Compliance Requirement:** Ohio Rev. Code Chapter 5727**Summary of Requirement: Kilowatt-hour tax (kWh tax)**

Municipal (Government) electric systems must assess a monthly kilowatt-hour (kWh) tax on end users. This tax is assessed at a variable rate that decreases as kilowatt-hour usage increases on the meters of end users (the last meter used to measure the kWh distributed). [Ohio Rev. Code §5727.81(A)]

Ohio Rev. Code §5727.82(A)(3) permits municipal electric communities to retain in their general fund the taxes collected from customers served inside their city or village limits (including taxes self-assessing customers pay, per §5727.81(C)(2)).

Note: This legislation did not change the constitutional rule that municipal electric systems can sell no more than one-third of electricity outside city or village limits.*

Municipal electric systems must file a monthly report and remit to the Tax Commissioner,⁷⁰ by the 20th of the next month, taxes collected from any distribution customers served outside their city or village limits. Even if a municipal electric system has no sales outside of its community limits, a monthly report must be filed. [Ohio Rev. Code §5727.82(A)(1) & (A)(3)]

A self-assessing option exists for large users consuming more than 45 million kWh annually. This self-assessing customer must annually register with the Department of Taxation and pay an annual fee to the State. A self-assessing customer located inside a municipal electric community's limits must remit any kWh tax directly to the community. [Ohio Rev. Code §5727.81(C)(2)]

Every electric system liable for the kWh tax must keep complete and accurate records of all electric distributions and other records as required by the Tax Commissioner. The records must be preserved for four years after the return for the taxes for which the records pertain is due or filed, whichever is later, and be available for inspection. [Ohio Rev. Code §5727.92]

Note: AOS Bulletin 2001-011 explains these requirements in more detail. Auditors should familiarize themselves with this Bulletin before testing this requirement.

Receipts can be recorded as either "Other Local Taxes" or "Intergovernmental" depending on the situation. For example, excise taxes collected by an electric distribution plant are normally recorded as "Other Local Taxes." However, a portion of excise tax collected from the electric distribution plants is paid to the state and distributed to the various subdivisions. These receipt should be recorded as "Intergovernmental."

* Per Ohio Const. Art. XVIII, Section 6: "Any municipality, owning or operating a public utility for the purpose of supplying the service or product thereof to the municipality or its inhabitants, may also sell and deliver to others any transportation service of such utility and the surplus product of any other utility in an amount not exceeding in either case fifty per cent of the total service or product supplied by such utility within the municipality, provided that such fifty per cent limitation shall not apply to the sale of

⁷⁰ Governments must pay the tax to the Tax Commissioner, unless required to remit the taxes via electronic funds transfer to the Treasurer of State per Ohio Rev. Code §5727.83.

water or sewage services.” (Note: 50% of the total supplied within the municipality = 1/3 of the total supply.)

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

If the kWh tax is not material to the financial statements:

1. Inquire with management if they are aware of and comply with this law.

2. Inquire with management if they have received any correspondence from an oversight agency regarding compliance or noncompliance with this law. If so, obtain and review correspondence to determine if a material penalty exists.

If the kWh tax is material to the financial statements:

1. Determine how kWh taxes billed /collected for customers residing outside of the municipality’s limits vs. those billed / collected inside the municipality’s limits.

2. Inquire with the municipality if there are any self-assessing customers to whom they supply electricity. If yes, determine how the tax is transmitted to the general fund. (If the self assessor is located outside of the entity limits, the self assessor remits the kWh tax directly to the State.)

3. Test how the government computes / segregates the tax billed to its residents and transfers the amount to its general fund.

4. Test that the revenue was posted to the correct line item.

Audit implications (the indirect and material effects of non-compliance, effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

Townships

1-27 Compliance Requirement: Ohio Rev. Code §517.15 – Creates the permanent cemetery endowment fund.⁷¹

Summary of Requirements: Previously, this fund accounted for gifts and bequests a township invested, with the interest used to maintain the donor-designated burial lots.

Townships may receipt money from various sources into this fund, *which becomes part of the nonexpendable fund principle.*⁷²

The sources of money a township can add to the nonexpendable endowment include gifts, charges added to the price regularly charged for burial lots, contributions and individual gifts and agreements with the purchase of a burial lot.

Townships can expend *endowment earnings* to maintain, improve and beautify specific burial lots and for general purpose maintenance, improvement and beautification of the cemeteries.

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

1. What are the sources of the moneys receipted into the fund? Please show me support for these sources. (Scanning the support should normally be sufficient.)
2. For what purposes were the moneys in this fund used? Please show me support for these expenditures. (Scanning the support should normally be sufficient.)
3. Compare disbursements to investment earnings. Disbursements in excess of unspent accumulated investment earnings violate Ohio Rev. Code §517.15, as the ~~Bill Analysis in the footnote below~~

⁷¹ Ohio Rev. Code terminology does not affect fund classification for financial reporting. Financial statement preparers should classify this fund according to GASB Cod. 1300. This fund might be a permanent fund under GASB 54 or private-purpose trust fund under GASB 34.

⁷² ~~According to the Bill Analysis of Amended Substitute House Bill Number 513, 124th General Assembly,~~ These financial sources become part of the endowment fund, along with any gifts, devises, or bequests for the maintenance, improvement, or beautification of the cemetery generally, or of a designated burial lot. (Ohio Rev. Code §517.15.)

describes.)

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

1-28 Compliance Requirement: Ohio Rev. Code § 507.09 and 505.24(C) Allocating township trustee and fiscal officer compensation

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

AOS Bulletin 2013-002 states attendance at board meetings and other activities supporting the general business of the township must be allocated to the general fund; therefore, allocating 100 percent of an official's compensation to funds other than the general fund is not permitted under Ohio law.

- (1) **Trustees receiving per diem compensation (MUST USE TIME AND EFFORT DOCUMENTATION):** When members of the board of township trustees are compensated per diem, a *majority* of the board must pass a resolution establishing the periodic notification method to be used for reporting the number of days spent in the service *and kinds of services rendered* on those days.⁷³ The per diem compensation shall be paid from the township general fund or from other township funds in proportion to the kinds of services rendered, as documented. (For example, the township could charge trustee time spent on road repairs to the road & bridge fund.) Ohio Rev. Code §505.24 limits the number of days a trustee can be compensated to 200.

However, for *salaries not* paid from the general fund, 2004 Op. Atty. Gen. No. 2004-036 established the following documentation requirements:

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

In other words, 2004 Op. Atty. Gen. No. 2004-036 requires trustees compensated on a per diem basis to establish administrative procedures to document the proportionate amount chargeable to other township funds based on the kinds of services rendered. The "administrative procedures" can be timesheets or a

⁷³ The Ohio Rev. Code does not define a "day" for purposes of this requirement. Townships should consult with their legal counsel and adopt a policy in compliance with OAG Opinion 2004-036. If a Township has a duly enacted policy defining what constitutes a "day" in compliance with OAG Opinion 2004-036, we will audit in accordance with that policy. If the Township has not adopted a policy, we will audit proportionately based on our determination of a "day" as indicated above.

similar method of record keeping, as long as the trustees document all time spent on township business and the type of service performed. If per diem trustees do not document their time, then no part of salaries may be paid from the restricted funds.

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

Per the above, per-diem trustees must record the time spent on various tasks and the specific fund to which the township will charge their costs when paying any proportion of a trustee's salary from a restricted fund. Although the fire and rescue services, ambulance services, and emergency medical services fund under Ohio Rev. Code § 505.84 was the focus of 2004 Op. Atty. Gen. No. 2004-036, the ruling also applies to funds for the motor vehicle license tax pursuant to Ohio Rev. Code § 4504.18 and 4504.19; motor vehicle tax pursuant to Ohio Rev. Code § 4503.02; gasoline tax pursuant to Ohio Rev. Code § 5735.27(A)(5)(d); the cemetery fund pursuant to Ohio Rev. Code § 517.03, and any other restricted fund. (The sole exception to this is for trustees charging all salaries to the general fund, as described above.) The township must maintain daily records of tasks performed for each individual trustee that, when reviewed cumulatively for the fiscal year, will provide reasonable justification for the apportionment of salary between funds as specified in the resolution. **Monthly summaries in lieu of daily records are not acceptable.**

- (2) **Trustees receiving compensation by annual salary (MUST USE CERTIFICATIONS IF PAID FROM FUNDS OTHER THAN THE GENERAL FUND):** To be paid on a salary basis in equal monthly installments, the board of trustees must *unanimously* pass a resolution to allow it. To be paid from any fund(s) other than the general fund, the resolution must also specify the proportions of the salary that are to be paid from each fund (Ohio Rev. Code §505.24(C)). If trustees use the salary method and are compensated from funds other than the general fund, they must certify the percentage of the time spent working on matters that are to be paid from funds other than the general fund. Trustees must complete a certification prior to receiving his/her pay for that pay period. The certification must be done individually, but is not required to be notarized. The certification is not required to be a time log. Rather, all that is required is a statement detailing the percentage of time that the trustee/fiscal officer spent during that pay period providing services related to each fund to be charged. A sample certification is attached to AOS bulletin 2011-007. If 100% of the compensation of the township trustee is to be paid to from the general fund, no certification is required.
- (3) **Fiscal officer compensation:** Fiscal officers compensated from funds other than the general fund must certify the percentage of the time spent working on matters that are to be paid from funds other than the general fund. They must complete a certification prior to receiving his/her pay for that pay period. The certification must be done individually, but is not required to be notarized. The certification is not required to be a time log. Rather, all that is required is a statement detailing the percentage of time that the trustee/fiscal officer spent during that pay period providing services related to each fund to be charged. A sample certification is attached to AOS bulletin 2011-007. If

100% of the compensation of the township fiscal officer is to be paid from the general fund, no certification is required.

~~For salaried trustees only, AOS will forgo issuance of a finding for adjustment in any case where the Township has reasonable supporting documentation (such as detailed time and effort records, timesheets, etc.) in lieu of the certifications. Auditors should ask the Township trustee(s) to sign a retroactive certification for each pay period and attach the supporting time and effort records to the certification. Absent this documentation, auditors should issue a finding for adjustment. Also, auditors should still issue a noncompliance citation for not preparing the certifications as required by statute in all cases.~~

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

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

Townships allocating 100 percent of officials' salaries to restricted funds will be subject to audit findings. ~~For audits of 2011-2012 periods, noncompliance will be addressed in a management letter comment. However, for 2012-2013 and subsequent audit periods,~~ Townships must properly allocate the officials' salaries for the entire period. Failure to make necessary allocation revisions could result in findings for adjustment that may serve to disqualify the township from lower-cost agreed upon procedure audits, result in qualified opinions, or otherwise increase audit costs.

Important note: If the township allocated salaries incorrectly it is likely they allocated reimbursable health care benefits incorrectly. Improper allocations of health care benefit reimbursements should be included in the findings for adjustment (if the auditee refuses to post the adjustment).

POSSIBLE NONCOMPLIANCE RISK FACTORS:

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

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

<ul style="list-style-type: none"> • Legislative and Management Monitoring • Management’s identification of changes in laws and regulations • Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures - Compliance (Substantive) Tests:

1. Document how the township records the time spent on each township service.
2. Recompute selected allocations of trustee/fiscal officer salaries or per diem amounts to each fund.

Inquire with the fiscal officer to determine how health care reimbursements are recorded.

For UAN entities: Use the wage base earning report – detail and summary. For periods before 2015, use the wage detail report.

3. For fiscal officers or trustees paid by annual salary with allocations to funds other than the general fund, trace selected allocations to certifications.
4. For trustees paid per diem, with allocations to funds other than the general fund, trace time or services performed to time or activity sheet.
5. Agree selected postings of the salaries from step 2 to the township’s check register.

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

SOLID WASTE MANAGEMENT

1-29 Compliance Requirements: Ohio Rev. Code § 343.01, 3734.52, 3734.55, 3734.56, 3734.57(B), 3734.573, 3734.57(G), and 3734.577 – Expenditures by solid waste management districts.

Summary of Requirement: Ohio Rev. Code § 343.01 and 3734.52 require all counties in Ohio to be a part of a solid waste management district, either individually or jointly as part of a multi-county (joint) solid waste management district. Ohio Rev. Code § 3734.55 and 3734.56 require all solid waste management districts to develop and submit solid waste management plans to Ohio EPA for approval. These plans address a variety of issues associated with solid waste management within the jurisdiction, including demonstrating that adequate landfill capacity exists for waste generated within the district and establishment of recycling goals. Once approved by the Ohio EPA, solid waste management districts are required to implement their plans.

Solid waste management districts are authorized to levy certain fees to fund the programs specified in their plans. Ohio Rev. Code § 3734.57(B) specifies that solid waste management districts can levy fees on the disposal of solid waste in landfills within their boundaries, and Ohio Rev. Code § 3734.573 specifies that solid waste management districts can levy fees on waste that is generated within their boundaries regardless of where the waste is disposed.⁷⁴ Both of these sections require the fee revenue shall be “kept in a separate and distinct fund to the credit of the district.” Ohio Rev. Code § 3734.57(G) specifies that “moneys . . . arising from the [disposal of generation fees] shall be expended by the board of county commissioners or directors of the district in accordance with the district’s solid waste management plan or amended plan . . . exclusively for the following purposes: . . .” Ohio Rev. Code § 3734.57(G) then provides ten “allowable uses” for the fee revenue.⁷⁵

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

Auditors should use the following sample questions and procedures:

⁷⁴ If a district charges a fee to private sector commercially- licensed haulers, the district cannot waive this fee for public sector commercially- licensed haulers. (Ohio Rev. Code § 3734.577)

⁷⁵ 2008 Op. Atty. Gen. No. 2008-021 clarifies that the fee can be “used by the district for the purposes set forth in Ohio Rev. Code § 3734.57(G)(1)-(10)] or to provide other remuneration or services to or on behalf of the district or its residents.” Since the fee can be used to subsidize the normal operations of the district, AOS believes districts should account for this fee within a separate sub-fund or account of the district’s general fund.

1. Review any policies and procedures the client has for administering this fund.
2. Test that disbursements were:
 - Allowable under one of the ten “allowable use” criteria for the fee revenue listed in Ohio Rev. Code § 3734.57(G); and
 - Allowable in accordance with the policies and procedures.
3. If significant unusual items are noted, auditors should make a referral to Ohio EPA, Division of Solid and Infectious Waste Management by sending an email to Referrals@ohioauditor.gov.

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

Appendix A - Agricultural Society Compliance Supplement

You should use this appendix for all audits of Agricultural Societies in addition to the general laws and regulations noted as applicable to Agricultural Societies in the Legal Matrix within Implementation Guide Exhibit 5.

Agricultural societies incorporate as either county (per Ohio Rev. Code § 1711.01) or independent (per Ohio Rev. Code § 1711.02). Certain laws herein apply to one or both types. Each step describes to which type of society it applies.

Agricultural Society Compliance Supplement

Applicability: County and independent societies

OCS Chapter 1 Part A

Budgetary Compliance Requirement: An Agricultural Society is not required to follow the budgetary statutes within Ohio Rev. Code Chapter 5705. However, the *Uniform Agricultural Society Accounting System User Manual* states:

Each agricultural society shall prepare an annual budget of its revenues and expenses. The budget shall cover the period December 1st through November 30th.

The budget shall be considered and approved by the board of directors prior to the first day of the ensuing fiscal year. The budget shall be prepared at the level of the accounts from the chart of accounts which are used by the society.

Budgeted revenues and expenses should be distributed to the month they are likely to be received and expended. The distributed monthly budget should be integrated into the society’s accounting system.

Actual revenues and expenses shall be compared to budgeted amounts each month, and reported to and reviewed by the board of directors. The board of directors shall determine the reasons why actual expenses exceed or are less than budgeted expenditures by making inquiries to fair management about the reasons.

We believe Agricultural Society Boards should not present budgetary statements as part of their basic statements, because they lack the legal authority to adopt” legally binding” budget as described in GASB Codification 2400.102. Therefore, if a Society adopts a budget and wishes to present it, the statements should present it as supplemental information (not RSI). However, while not legally binding under the GASB criteria, over expending the budget could be noncompliance with a Society’ budget resolution. Determining whether noncompliance exists requires judgment based on whether the Society intends their budget to limit expenditures vs. being only a planning tool, etc.

[Insert applicable budgetary requirements.]

* An appropriation is authorization to expend money.

In determining how the government ensures compliance, consider the following:	What control procedures address the compliance requirement?	W/P Ref.
➤ Policies and Procedures Manuals		

<ul style="list-style-type: none"> ➤ Knowledge and Training of personnel ➤ Periodic Reviews/Comparisons of Budgeted and Actual Amounts ➤ Presence of Effective Accounting System ➤ Legislative and Management Monitoring ➤ Management’s identification of changes in laws and regulations ➤ Management’s communication of changes in laws and regulations to employees 		
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Suggested Audit Procedures – Compliance (Substantive) Tests:

1. Read resolutions and determine whether the society enacted a budget. (If no budget was adopted include a management letter comment that one be adopted per the *Uniform Agricultural Society Accounting System User Manual*).
2. Inquire (or determine from reading the minutes) if amended or supplemental measures have been passed.
3. Inspect the society’s records throughout the period to determine if updates and adjustments were properly and timely posted.
4. Determine if the accounting system “integrates” budgetary data. This means the accounting system should report appropriations, encumbrances, unencumbered cash balances, and estimated receipts, and should compare budgetary data to actual results. If the client uses a manual system (i.e. spreadsheets) determine if the manual system used by the client adequately tracks and compares budgetary data.

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

Applicability: County societies

OCS Chapter 1 Part C

3a. Debt Compliance Requirement: Ohio Rev. Code §1711.18 – Issuance of county bonds to pay debts of county society; 1711.19 – Bonds; 1711.20 – Levy for payment of bonds; and 1711.21 – Use of money raised by county taxation.

Summary of Requirement: In a county in which there is a county agricultural society indebted fifteen thousand dollars or more and such society has purchased a fairground or title, the board of county commissioners shall submit to the electors of the county whether or not county bonds shall be issued and sold to liquidate such indebtedness. If a majority of the voters vote in favor thereof, the board of county commissioners shall issue and sell bonds of the county in the amount necessary. Such bonds shall bear interest at not more than the rate Ohio Rev. Code § 9.95 provides,⁷⁶ payable semiannually, and shall be issued for a period of not less than ten nor more than twenty years.

From the proceeds arising from the sale of such bonds, the board shall pay off the indebtedness for which such bonds were sold. The board of county commissioners shall levy a tax upon all the taxable property on the tax duplicate of the county for the purpose of paying such bonds as they mature and the interest thereon.

When money has been raised by taxation by a county for the purpose of leasing lands for county fairs, erecting buildings for county fair purposes, or making improvements on a county fairground, or for any purpose connected with the use of a county fairground or with the management thereof by a county agricultural society, such money shall be used for such purpose only.

Note: Bonds a county issues under this section are **county** liabilities, though the society may agree to repay the county for debt service due on the bonds. (If the society contractually agrees to pay the county for the debt service, the society’s notes should disclose a debt obligation to the county. However, do **not** characterize the obligation as *bonds payable*.)

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

⁷⁶ Ohio Rev. Code § 9.95 states, “Interest shall not exceed the maximum or maximum average annual interest rate per annum determined in or pursuant to the proceedings for the securities by the county commissioners.”

Suggested Audit Procedures – Compliance (Substantive) Tests:

- Inspect cash receipt records and minutes and determine if indebtedness exists.
- For bonds a county issues during the audit period, compare disbursements of the proceeds to the bond documents to determine if the proceeds were spent for purposes for which the bonds were issued.
- For bonds issued during the audit period, read bond contracts and summarize provisions applicable to the Society, and save in the permanent file. The summary should describe:
 - Purposes for which the debt was issued.
 - Collateral
 - An amortization schedule for any debt service the society owes to the county.
- For years in which the society owes debt service to the county, agree payments to the amortization schedule.
- Determine if a debt footnote describes the purpose, original issue amount, collateral, and an amortization schedule for this debt.

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

Applicability: County society

OCS Chapter 1 Part C

3b. Debt Compliance Requirement: Ohio Rev. Code §1711.25 to 1711.30 – Sale, lease, purchase, and exchange of sites by county society; payment for new site by county funds or bonds; tax levy; and approval by electors.

Summary of Requirement: A county agricultural society may secure a different site for its annual fair. If this occurs, auditors should review the Ohio Revised Code sections listed above and develop appropriate audit procedures.

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

Suggested Audit Procedures – Compliance (Substantive) Tests:

- By reading the minutes, determine if the Society procured a different site for its fair, or acquired or disposed of land where the annual fair is held. If so, review the code sections above for specific requirements.
- In the year these transactions occur, read contracts and summarize requirements imposing debt or lease payments, collateral, insurance or other obligations on the society. Save the summary in the permanent file.
- Determine if the footnotes adequately describe any leases or other society obligations, amortization schedules, etc.
- For subsequent years, agree any debt or lease payments owed to the contract summary in the permanent file.

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

Applicability: County societies

OCS Chapter 1 Part C

3c. Debt Compliance Requirement: Ohio Rev. Code §1711.13 – County agricultural society may obtain mortgage debt or may enter into written agreements to obtain loans and credit for expenses.

Summary of Requirement: County agricultural societies may do either or both of the following:

(A) Mortgage their grounds for the purpose of renewing or extending pre-existing debts, and for the purpose of furnishing money to purchase additional land, but if the board of county commissioners has caused money to be paid out of the county treasury to aid in the purchase of the grounds, no mortgage shall be given without the consent of the board. Deeds, conveyances, and agreements in writing, made to and by such societies, for the purchase of real estate as sites for their fairs, shall vest a title in fee simple to the real estate described in those documents, without words of inheritance. This means the Agricultural Society owns the land outright without any third party claims.

(B) Enter into agreements to obtain loans and credit for expenses related to the purposes of the county agricultural society, provided that the agreements are in writing and are first approved by the board of directors of the society. The total net indebtedness incurred by a county agricultural society pursuant to this division (B) shall not exceed an amount equal to twenty-five percent of its annual revenues.

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

Suggested Audit Procedures – Compliance (Substantive) Tests:

- By reading the permanent file, minutes, cash receipt records, other documents, and by inquiry, determine if any such indebtedness exists.
- If there is mortgage debt, use the sources described in **a.** above to determine if the board of county commissioners paid county funds to aid in purchasing the grounds. Read a copy of the county commissioners’ resolution to determine if they gave the proper consent for this mortgage debt. Retain a copy of the resolution in the permanent file.

- Loans and Credit⁷⁷
- If the Society has procured loans and credit for expenses related to the purposes of the county agricultural society, verify these agreements are in writing and were first approved by the board of directors of the society.
- Examine the society’s computation supporting that the total net indebtedness from loans and credit does not exceed twenty-five percent of its annual revenues.
- For debt issued during the audit period, compare disbursements of the proceeds to the bond documents to determine if the proceeds were spent for purposes for which the bonds were issued.
- For debt issued during the audit period, read related contracts and summarize provisions applicable to the society, and save in the permanent file. The summary should describe:
 - Purposes for which the debt was issued.
 - Collateral / mortgage
 - An amortization schedule for any debt service the society owes to the county.
- For years in which the society owes debt service, agree payments to the amortization schedule.
- Determine if a debt footnote describes the purpose, original issue amount, collateral, and an amortization schedule for this debt.

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

⁷⁷ The law authorizing this type of debt did not exist prior to the addition of (B) to Ohio Rev. Code §1711.13, effective September 26, 2003. Therefore, if any of this type of debt was acquired prior to September 26, 2003, the Agricultural Society shall discharge such debt.

Applicability: County and independent societies

OCS Chapter 1 Part D

Accounting Compliance Requirement: Ohio Admin. Code § 117-10-01 – Financial reporting and accounting for county agricultural societies.

Summary of Requirement: Each county agricultural society and independent agricultural society shall, for financial reporting and accounting purposes, record and report all financial transactions on a fiscal year basis beginning on December 1 and ending November 30. Societies shall record and report all financial transactions in accordance with the *Uniform System of Accounting for Agricultural Societies*⁷⁸.

Note: You can view the latest version of this at www.ohioauditor.gov, under *Resources/Publications & Manuals*.

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

Suggested Audit Procedures – Compliance (Substantive) Tests:

- Compare the *Uniform System of Accounting for Agricultural Societies* requirements with the systems and records the society is using.
- Determine if:
 - The required chart of accounts is used.
 - A cash journal, a receipts ledger, an expense ledger, and an investment ledger are used.

⁷⁸ The Auditor of State also requires by rules, that certain public offices follow a prescribed uniform chart of accounts and/or establish a fund accounting system to demonstrate legal compliance, financial accountability and to provide management with information for decision making. These rules are in Chapter 117-2 of the Ohio Admin. Code. As a matter of accountability and internal control, each public office should account for financial activities using an accounting system which demonstrates legal compliance; follows a documented chart of accounts appropriate for its particular activities; and is supported by appropriate subsidiary ledgers/journals. When a public office fails to maintain such an accounting system, auditors should consider whether the failure constitutes a reportable internal control deficiency or weakness.

- The prescribed formats for accounting and reporting information are used (including receipts, purchase orders, vouchers, checks, and bank reconciliations).

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

Note: Auditors should test the applicable deposit and investment requirements documented in Chapter 2 Section E of the OCS. Refer to Implementation Guide Exhibit 5 for guidance on specific applicability.

Note: Auditors should test the applicable health care self insurance and liability insurance requirements documented in Chapter 1 Section F of the OCS. Refer to Implementation Guide Exhibit 5 for guidance on specific applicability.

Applicability: County and independent societies

OCS Chapter 1 Part F

Other Potentially Direct and Material Laws and Regulations: Ohio Rev. Code §3769.082 – Ohio Fairs Fund; distribution.

Summary of Requirement: Ohio Fairs Fund moneys shall be distributed by the director of agriculture annually, on or before the first day of March, as follows:

- To each county agricultural society and to each independent agricultural society conducting an annual fair, a prescribed percentage of Ohio Fairs Fund money, to be allocated for general operations.
- To each county agricultural society and each independent agricultural society conducting horse races (harness races or running races) during their annual fair, the sum of four thousand dollars, to be used as purse money for horse races in accordance with this section, and the additional sum of one thousand dollars to each such county agricultural society and independent agricultural society to be used for race track maintenance and other expenses necessary for the conduct of such horse races or colt stakes.
- A grant of four thousand dollars shall be available to each county or independent agricultural society for the conduct of four stake races for two-year-old and three-year-old colts and for four stake races for two-year-old and three-year-old fillies at each gait of trotting and pacing, provided, that at least five hundred dollars shall be added to each race. Exclusive of entrance fees and the excess moneys provided below, the grant of four thousand dollars for purse money provided, a sum not to exceed three thousand dollars may be used by a society to reach the required purse for each of the eight stake races. Such stake races shall be distributed as evenly as possible throughout the racing season.
- In the event that the moneys available on the first day of March of any year are less than that required above, the amount distributed from the Ohio Fairs Fund may be different than the amounts reflected above.
- County agricultural societies and independent agricultural societies conducting stake races shall, on or before the first day of November in the year immediately preceding the year in which the moneys are to be distributed, make application for participation in such to the director of agriculture on forms provided by the director.
- Distribution of moneys for stake races shall not be paid to county agricultural societies and independent agricultural societies that conduct on their race courses automobile or motorcycle races during any year for which such distribution is requested, unless such automobile or motorcycle races are not conducted during the days and nights that horse racing is being conducted at such fair.
- Any county agricultural society or independent agricultural society which uses the moneys distributed under this section for any purse other than that provided in this section is not eligible to receive distribution from the Ohio Fairs Fund for a period of two years after such misuse of such moneys occurs.

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

- Determine whether the society receipted Ohio Fairs Fund in the State and Local Fund, and how much was restricted for racing purses and track maintenance according to the above sections.
- Compare amounts distributed for race purses and track maintenance to the amounts restricted to these purposes, and compute whether the amounts disbursed at least equaled the restricted amounts.

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

OCS Chapter 1 Part F

Compliance Requirement: Ohio Rev. Code §117.38, 901.06, and 1711.05 – Filing financial reports and Publication of treasurer’s account.

Summary of Requirement: Prior to the first day of December of each year, the director of agriculture shall set a date in January of the following year, on which the director shall meet with the presidents or other authorized delegates of agricultural societies which conduct fairs in compliance with sections 1711.01 to 1711.35, inclusive, of the Revised Code, and regulations of the department of agriculture. Each society shall deliver its annual report to the director at or before the January meeting. [Ohio Rev. Code § 901.06]

Cash-basis entities must file annual reports with the Auditor of State. Since the Auditor of State has not prescribed a form for the report, the society shall file an annual report using the format as suggested in the handbook titled, “Uniform System of Accounting for Agricultural Societies.” Any public office which does not file the report by the required date shall pay a penalty of twenty-five dollars for each day the report remains unfilled, not to exceed seven hundred fifty dollars. [Ohio Rev. Code § 117.38]

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

Suggested Audit Procedures - Compliance (Substantive) Tests:

- 2) Trace selected totals from the annual report to the underlying accounting system. If we use the annual report as a trial balance, we will satisfy this requirement by completing the mandatory Trial Balance steps from the financial audit program. If the report is significantly deficient, we should cite Ohio Rev. Code §117.38 for filing an incomplete or misleading report.
- 3) Search LGS’s annual report file to determine whether the government filed an annual report with our office.

4) Inquire to determine the date the report was filed with the Director of Agriculture.

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

Note: Auditors should test depository requirements as applicable in Chapter 2 Section E of the OCS. Refer to Implementation Guide Exhibit 5 for guidance on specific applicability.

Note: Auditors should test public meetings requirements as applicable in Chapter 3 of the OCS. Refer to the Implementation Guide Exhibit 5 for guidance on specific applicability.

Note: Auditors should test public records requirements as applicable in Chapter 3 of the OCS. Refer to the Implementation Guide Exhibit 5 for guidance on specific applicability.

Note: Auditors should test income tax requirements as applicable in Chapter 1 Section F of the OCS. Refer to Implementation Guide Exhibit 5 for guidance on specific applicability.

Applicability: County and independent societies