



Mary Taylor, CPA
Auditor of State

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

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Mary Taylor, CPA
Auditor of State

Intercommunity Cable Regulatory Commission
Hamilton County
2492 Commodity Circle
Cincinnati, Ohio 45241

To the Board of Directors:

As you are aware, the Auditor of State's Office (AOS) must modify the *Independent Accountants' Report* we provide on your financial statements due to an interpretation from the American Institute of Certified Public Accountants (AICPA). While AOS does not legally require your government to prepare financial statements pursuant to Generally Accepted Accounting Principles (GAAP), the AICPA interpretation requires auditors to formally acknowledge that you did not prepare your financial statements in accordance with GAAP. Our report includes an adverse opinion relating to GAAP presentation and measurement requirements, but does not imply the amounts the statements present are misstated under the non-GAAP basis you follow. The AOS report also includes an opinion on the financial statements you prepared using the modified cash basis and financial statement format the AOS permits.

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Mary Taylor, CPA
Auditor of State

April 29, 2008

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Mary Taylor, CPA

Auditor of State

INDEPENDENT ACCOUNTANTS' REPORT

Intercommunity Cable Regulatory Commission
Hamilton County
2492 Commodity Circle
Cincinnati, Ohio 45241

To the Board of Directors:

We have audited the accompanying financial statements of the Intercommunity Cable Regulatory Commission, Hamilton County, Ohio (the Commission), as of and for the years ended December 31, 2006 and 2005. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require that we plan and perform the audit to reasonably assure whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

As described more fully in Note 1, the Commission has prepared these financial statements using accounting practices the Auditor of State prescribes or permits. These practices differ from accounting principles generally accepted in the United States of America (GAAP). Although we cannot reasonably determine the effects on the financial statements of the variances between these regulatory accounting practices and GAAP, we presume they are material.

Revisions to GAAP would require the Commission to reformat its financial statement presentation and make other changes to the financial statements. While the Commission does not follow GAAP, generally accepted auditing standards requires us to include the following paragraph if the statements do not substantially conform to GAAP presentation requirements. The Auditor of State permits, but does not require Commissions to reformat their statements. The Commission has elected not to follow GAAP statement formatting requirements. The following paragraph does not imply the amounts reported are materially misstated under the accounting basis the Auditor of State permits. Our opinion on the fair presentation of the amounts reported pursuant to its non-GAAP basis is in the second following paragraph.

In our opinion, because of the effects of the matter discussed in the preceding two paragraphs, the financial statements referred to above for the years ended December 31, 2006 and 2005 do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the Commission as of December 31, 2006 and 2005, or its changes in financial position or cash flows for the years then ended.

Also, in our opinion, the financial statements referred to above present fairly, in all material respects, the assets, liabilities and fund cash balances of the Intercommunity Cable Regulatory Commission, Hamilton County, Ohio as of December 31, 2006 and 2005, and the revenues it received and disbursements paid for the years then ended on the accounting basis Note 1 describes.

The Commission has not presented Management's Discussion and Analysis, which accounting principles generally accepted in the United States of America has determined is necessary to supplement, although not required to be part of, the financial statements.

In accordance with *Government Auditing Standards*, we have also issued our report dated April 29, 2008, on our consideration of the Commission's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. While we did not opine on the internal control over financial reporting or on compliance, that report describes the scope of our testing of internal control over financial reporting and compliance, and the results of that testing. That report is an integral part of an audit performed in accordance with *Government Auditing Standards*. You should read it in conjunction with this report in assessing the results of our audit.

A handwritten signature in cursive script that reads "Mary Taylor".

Mary Taylor, CPA
Auditor of State

April 29, 2008

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**STATEMENT OF ASSETS, LIABILITIES
AND FUND BALANCES
ENTERPRISE FUND
DECEMBER 31, 2006 AND 2005**

	2006	2005
ASSETS:		
Current assets:		
Cash	\$598,585	\$414,895
Inventory - video tapes	20,000	20,000
Total Current Assets	618,585	434,895
Capital Assets:		
Office equipment and furniture	177,022	168,419
Video equipment	923,151	884,148
Van (2) fully equipped with video equipment	660,899	616,568
Government access equipment and improvement	228,407	204,178
Building	254,280	254,280
Building improvements	291,019	291,019
Playback equipment and studio	865,016	803,204
Total Capital Assets	3,399,794	3,221,816
Less: accumulated depreciation	1,807,299	1,577,266
Net Capital Assets	1,592,495	1,644,550
Other assets:		
Deposits	1,927	1,927
Total Assets	\$2,213,007	\$2,081,372
LIABILITIES AND FUND BALANCE		
Current liabilities:		
PERS withheld and accrued	\$883	\$752
Total Current Liabilities	883	752
Retained Earnings	2,212,124	2,080,620
Total liabilities and fund balance	\$2,213,007	\$2,081,372

The notes to the financial statements are an integral part of this statement.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**STATEMENT OF REVENUES, EXPENSES, AND
CHANGES IN RETAINED EARNINGS
ENTERPRISE FUND
FOR THE YEARS ENDED DECEMBER 31, 2006 AND 2005**

	2006	2005
REVENUE:		
Member support:		
Franchise fees	\$1,169,490	\$792,897
Total member support	1,169,490	792,897
Other revenue:		
Interest	7,402	6,997
Tape sales and dub fees	3,629	1,715
Total other revenue	11,031	8,712
Total revenue	1,180,521	801,609
EXPENSES:		
Program services:		
Financial and material assistance	250,590	238,568
Member intervention	135,701	130,257
Community involvement	394,549	386,597
Total program services	780,840	755,422
Supporting services:		
Management and general	268,177	251,154
Total expenses	1,049,017	1,006,576
Excess of revenue over expenses	131,504	(204,967)
Retained Earnings, January 1	2,080,620	2,285,587
Retained Earnings, December 31	\$2,212,124	\$2,080,620

The notes to the financial statements are an integral part of this statement.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. Description of the Entity

The Intercommunity Cable Regulatory Commission, Hamilton County, Ohio (the Commission), is a Regional Council of Governments, organized under Chapter 167 of the Ohio Revised Code. The Commission is composed of 27 member communities, each of which is a political subdivision. As the agent for the participating communities, the Commission was established to foster cooperation through a central administration for the purpose of administering cable television franchises and for the purpose of stimulating and supporting the use of public and local access including the various institutional and educational networks on behalf of each political subdivision and its school district.

The Commission's management believes these financial statements present all activities for which the Commission is financially accountable.

B. Accounting Basis

These financial statements of the Commission have been prepared in conformity with the modified cash basis method of accounting. This method is a mixture of the cash basis and the accrual basis. Expenses having an economic life of more than one year are capitalized as assets and depreciated over future years. Pension obligations are treated as expenses when due. The Commission capitalizes videotape inventory and records liabilities for pension payments owed to PERS. Other payments are recorded as expenses when disbursed in cash. Revenue is recorded when received in cash.

These statements include adequate disclosure of material matters, as the Auditor of State prescribes or permits.

C. Cash and Investments

Certificates of deposit are valued at cost.

D. Fund Accounting

In order to ensure observance of limitations and restrictions placed on the use of resources available to the Commission, its accounts are maintained in accordance with the principles of fund accounting. Resources for various purposes are classified for accounting and reporting purposes into a fund established according to its nature and purpose. The assets, liabilities, and fund balance of the Commission is reported in an enterprise fund statement format. Enterprise funds account for operations that are similar to private business enterprises, where management intends to recover the significant costs of providing certain goods or services through user charges. Additionally, the Commission internally budgets monies within this fund into the following categories: Operating, Equipment and Grants.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005
(Continued)**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

E. Tape Inventory

The Commission maintains an inventory of video tapes for use by the member communities. Video tapes are used to televise programs produced throughout the Commission. The tapes are disposed of when management determines that its quality is insufficient for viewing on cable television. These tapes are given to schools within the member communities for use in the classrooms. The basis for presenting the video tape inventory is an estimate based on the lower of cost or market.

F. Donated Services

No amounts have been reported on the financial statements for donated services because no objective basis is available to measure the value of such services. Volunteers assist in the filming and editing of their own community programs.

G. Capital Assets

Capital Assets are stated at cost, less accumulated depreciation. Depreciation is computed on the straight-line basis over the estimated useful life of the assets. Repairs and maintenance are recorded as expenses.

Estimated useful lives of various classes of fixed assets are as follows:

Equipment	5 – 15 years
Building and Building Improvements	20 – 40 years

H. Expenses

Expenses are presented as program services and supporting services. Program service expenses are presented as financial and material assistance, member intervention, and community involvement.

1. Financial and Material Assistance

Included in these expenses are the purchase, upkeep, and storage of equipment.

2. Member Intervention

Included in these expenses are the administration and supervision of the franchising cable company as described below. The Commission conducts five year cable company reviews of performance as it relates to the granted franchise within the communities. The Commission also advises communities on legal issues, mergers, and other new developments as they occur.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005
(Continued)**

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

3. Community Involvement

These expenses involve various types of interaction with the residents of member communities including newsletters, a variety of program productions ranging from sporting and cultural activities to election coverage, training in the use of equipment, school equipment grants, and other activities.

4. Supporting Expenses

Included in these expenses is the maintenance of offices at the Commission, billing and accounting, secretarial, and other administrative expenses.

I. Sick and Vacation Leave

The Commission has established the following sick and vacation policies for full-time salaried employees:

Full-time employees accumulate five days of vacation after the first year worked. After eight years of continuous employment, employees accumulate three regular work weeks of vacation time. After fourteen years of continuous employment, employees accumulate four regular work weeks of vacation time. After eighteen years of continuous employment, employees accumulate five regular work weeks of vacation time. All employees must take their vacation within the calendar year. Unused vacation time will not be accumulated.

A regular full-time employee receives 2.46 hours of sick pay for each completed month of service. Unused sick leave shall accumulate to a maximum of 90 sick days (180 days for those hired prior to the acceptance of these policies) will be payable at 100% of pay.

2. EQUITY IN POOLED CASH AND DEPOSITS

The Commission maintains a cash pool for all funds use. The Ohio Revised Code prescribes allowable deposits and investments. The carrying amount of cash and deposits at December 31 was as follows:

	<u>2006</u>	<u>2005</u>
Demand deposits	\$498,585	\$314,895
Certificates of deposit	<u>100,000</u>	<u>100,000</u>
Total deposits	<u>\$598,585</u>	<u>\$414,895</u>

Deposits: Deposits are insured by the Federal Depository Insurance Corporation; or collateralized by the financial institution's public entity deposit pool

At December 31, 2006 and 2005, the bank balance of deposits was \$576,452 and \$359,442, respectively. The bank balance was covered entirely by federal depository insurance and pooled collateral.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS
DECEMBER 31, 2006 AND 2005
(Continued)**

2. EQUITY IN POOLED CASH AND DEPOSITS (Continued)

Various restrictions on deposits are imposed by statutes. All deposits with financial institutions must be collateralized in an amount equal to 105% of uninsured deposits. The collateral must be held by a qualified trustee as defined by state law.

3. FRANCHISE FEE RECEIPTS

The franchise fees are received from one major franchisee. Per the franchise agreement with the cable company providing services in the area, the participating communities receive five percent (5%) of the franchisee's gross receipts of which two percent (2%) is allocated to fund the Commission. The Commission recognizes revenue when received. All contributions are considered available for unrestricted use.

4. RETIREMENT COMMITMENTS

The Commission's employees belong to the Ohio Public Employees Retirement System (OPERS) of Ohio. PERS is a cost-sharing, multiple-employer plan. The Ohio Revised Code prescribes the plans' benefits, which include postretirement healthcare and survivor and disability benefits.

The Ohio Revised Code also prescribes contribution rates. For 2006 and 2005, OPERS members contributed 9 and 8.5%, respectively, of their gross salaries and the Commission contributed an amount equaling 13.7 and 13.55%, respectively, of participants' gross salaries. The Commission owed accrued OPERS Contributions and withholdings of \$883 as of December 31, 2006 and \$752 as of December 31, 2005. These amounts are included as a liability on the appropriate financial statements and were paid to OPERS in the subsequent year.

5. RISK MANAGEMENT

Commercial Insurance

The Commission has obtained commercial insurance for the following risks:

- Comprehensive property and general liability;
- Vehicles; and
- Errors and omissions.

The Commission also provides health insurance coverage and benefits to full-time employees through reimbursement or a private carrier.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**SCHEDULE OF FUNCTIONAL EXPENSES
ENTERPRISE FUND
FOR THE YEAR ENDED DECEMBER 31, 2006**

	Program Services				Total All Funds
	Financial and Material Assistance	Member Intervention	Community Involvement	Supporting Services	
Salaries	\$49,034	\$99,031	\$143,157	\$128,225	\$419,447
Employee health and retirement benefits	10,563	21,333	30,838	27,621	90,355
Payroll taxes	618	1,247	1,803	1,615	5,283
Total salaries and related expenses	60,215	121,611	175,798	157,461	515,085
Mileage and travel expense	1,310	1,310	7,858	2,619	13,097
Education and seminars	2,069	2,068	2,069	2,068	8,274
Utilities and building upkeep costs	12,635		25,269	25,269	63,173
Telephone	706	4,236	3,529	5,648	14,119
Office supplies and computer expense				14,171	14,171
Equipment supplies and maintenance	5,283		2,642	881	8,806
Equipment and vehicle rentals		1,373	2,745	9,608	13,726
Postage and delivery		124	1,486	867	2,477
Newsletter/annual report			560		560
Professional fees:					
Accounting and audit				14,342	14,342
Legal fees				4,725	4,725
Dues and subscriptions	895	895	1,342	1,342	4,474
Van equipment repair and upkeep	7,964		7,964		15,928
Insurance - liability	12,265		12,265		24,530
Video supplies	1,112		7,785		8,897
Video tape expense	3,758		3,758		7,516
Promotional/meetings expense	4,085	4,084	6,127	6,127	20,423
Production helper expense			64,205		64,205
Total expenses before depreciation	112,297	135,701	325,402	245,128	818,528
Depreciation expense	138,293		69,147	23,049	230,489
Total expenses	\$250,590	\$135,701	\$394,549	\$268,177	\$1,049,017

The notes to the financial statements are an integral part of this statement.

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**SCHEDULE OF FUNCTIONAL EXPENSES
ENTERPRISE FUND
FOR THE YEAR ENDED DECEMBER 31, 2005**

	<u>Program Services</u>				Total All Funds
	Financial and Material Assistance	Member Intervention	Community Involvement	Supporting Services	
Salaries	\$45,973	\$92,848	\$134,219	\$120,219	\$393,259
Employee health and retirement benefits	11,649	23,528	34,012	30,463	99,652
Payroll taxes	535	1,081	1,562	1,399	4,577
Total salaries and related expenses	58,157	117,457	169,793	152,081	497,488
Mileage and travel expense	1,019	1,020	6,115	2,039	10,193
Education and seminars	2,748	2,747	2,748	2,747	10,990
Utilities and building upkeep costs	16,128		32,252	32,254	80,634
Telephone	740	4,444	3,702	5,923	14,809
Office supplies and computer expense				14,136	14,136
Equipment supplies and maintenance	1,441		720	240	2,401
Equipment and vehicle rentals		909	1,818	6,364	9,091
Postage and delivery		553	6,635	3,871	11,059
Newsletter/annual report					0
Professional fees:					
Accounting and audit				3,393	3,393
Legal fees				1,725	1,725
Dues and subscriptions	513	513	770	770	2,566
Van equipment repair and upkeep	8,829		8,829		17,658
Insurance - liability	13,201		13,201		26,402
Video supplies	944		6,604		7,548
Video tape expense	2,100		2,100		4,200
Promotional/meetings expense	2,615	2,614	3,922	3,922	13,073
Production helper expense			62,321		62,321
Total expenses before depreciation	108,435	130,257	321,530	229,465	789,687
Depreciation expense	130,133	-	65,067	21,689	216,889
Total expenses	\$238,568	\$130,257	\$386,597	\$251,154	\$1,006,576

The notes to the financial statements are an integral part of this statement.



Mary Taylor, CPA

Auditor of State

INDEPENDENT ACCOUNTANTS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS REQUIRED BY *GOVERNMENT AUDITING STANDARDS*

Intercommunity Cable Regulatory Commission
Hamilton County
2492 Commodity Circle
Cincinnati, Ohio 45241

To the Commission Board of Trustees:

We have audited the financial statements of the Intercommunity Cable Regulatory Commission, Hamilton County, Ohio (the Commission), as of and for the years ended December 31, 2006 and 2005, and have issued our report thereon dated April 29, 2008, wherein we noted the Commission uses a comprehensive basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in the Comptroller General of the United States' *Government Auditing Standards*.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the Commission's internal control over financial reporting as a basis for designing our audit procedures for expressing our opinion on the financial statements, but not to opine on the effectiveness of the Commission's internal control over financial reporting. Accordingly, we have not opined on the effectiveness of the Commission's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the Commission's ability to initiate, authorize, record, process, or report financial data reliably in accordance with its applicable accounting basis, such that there is more than a remote likelihood that the Commission's internal control will not prevent or detect a more-than-inconsequential financial statement misstatement.

A material weakness is a significant deficiency, or combination of significant deficiencies resulting in more than a remote likelihood that the Commission's internal control will not prevent or detect a material financial statement misstatement.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all internal control deficiencies that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider material weaknesses, as defined above.

We noted certain matters that we reported to the Commission's management in a separate letter dated April 29, 2008.

Compliance and Other Matters

As part of reasonably assuring whether the Commission's financial statements are free of material misstatement, we tested its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could directly and materially affect the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and accordingly, we do not express an opinion. The results of our tests disclosed instances of noncompliance or other matters that we must report under *Government Auditing Standards* which are described in the accompanying schedule of findings as items 2006-001 and 2006-002.

We also noted certain noncompliance or other matters not requiring inclusion in the report that we reported to the Commission's management in a separate letter dated April 29, 2008.

We intend this report solely for the information and use of management and the Board of Directors. We intend it for no one other than these specified parties.

A handwritten signature in black ink that reads "Mary Taylor". The signature is written in a cursive, flowing style.

Mary Taylor, CPA
Auditor of State

April 29, 2008

**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**SCHEDULE OF FINDINGS
DECEMBER 31, 2006 AND 2005**

FINDINGS RELATED TO THE FINANCIAL STATEMENTS REQUIRED TO BE REPORTED IN ACCORDANCE WITH GAGAS
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FINDING NUMBER 2006-001

Finding for Recovery – Repaid Under Audit

State ex rel. McClure v. Hagerman (1951), 155 Ohio St. 320, provides that expenditures made by a public entity should serve a proper public purpose. *McClure* indicates that as a general rule, the determination of what constitutes a “proper public purpose” rests with the judgment of the governmental entity, unless such determination is arbitrary and unreasonable. Even if a purchase is reasonable, 1982 Op. Att’y Gen. No. 82-006 indicates that the decision to expend public funds must be made in accordance with the procedural formalities governing the exercise of legislative power. Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only. Auditor of State Bulletin 2003-005 Expenditure of Public Funds/Proper “Public Purpose” states that the Auditor of State’s Office will only question expenditures where the legislative determination of a public purpose is manifestly arbitrary and incorrect. In the case of the ICRC the legislative authority is the Board of Directors.

During 2006 and 2005, the ICRC paid for an annual Christmas gathering (staff meeting), gifts cards and other tokens of appreciate provided to officials, employees and volunteers during the year. The total paid in 2006 for these expenditures was \$1,554. The total paid in 2005 for these expenditures was \$2,477. The total amount of expenditures that was deemed not to be for a proper public purpose was \$4,031. These expenditures were charged to ICRC credit cards, at the direction of the ICRC Director. The ICRC Board of Directors did not issue prior approval of these expenditures, demonstrating what public purpose such expenditures served, nor did the Board of Directors have a policy permitting these type of expenditures.

Additionally, certain expenditures relating to the Christmas gathering and other meals were not supported with detailed invoices or receipts to indicate each of the items purchased.

The failure to maintain adequate support for expenditures could result in a loss of accountability over the ICRC’s finances, making it difficult to identify errors which could go undetected, and possibly result in expenditures that are not for a proper public purpose. We recommend that the ICRC receive prior approval for all expenditures from the Board of Directors in accordance with Auditor of State Bulletin 2003-005.

In accordance with the foregoing facts, and pursuant to Ohio Rev. Code Section 117.28, a Finding for Recovery for public money illegally expended is hereby issued against Patricia Stern, Executive Director, for \$4,031; and in favor of the Intercommunity Cable Regulatory Commission General Operating Fund (presented as Enterprise fund activity.)

When informed of these facts, Ms. Stern presented the items to the Board of Directors of the ICRC and the Board passed a resolution on October 25, 2007 retroactively ratifying the expenditures brought to their attention. The Board also adopted a policy concerning expenditures for a proper public purpose.

**FINDING NUMBER 2006-001
(Continued)**

Officials' Response:

The ICRC respectfully dissents from this Audit Finding (No. 2006-001). The ICRC Annual Budget contains, and has since 1992, expense line items "Production Helper Expense" and "Annual Dinner, Seminars and Volunteers." The latter expense line item was renamed "Promotional/Meetings" in 1997. It is under these Board adapted budget line items that expenditures for meals, gift certificates, small gifts, and various tokens of appreciation were and are provided to the volunteers, employees, and members of the ICRC community. These expenses are incurred in recognition of countless hours of community service provided by these individuals (and by no means are of concomitant value) and also represent expressions of goodwill toward ICRC community members who have suffered illness or personal loss. Given the long-standing practice of the ICRC Board in approving these expenditures under the above budget categories it seems unduly harsh and an unwarranted assumption of bad faith on the part of the ICRC and its Executive Director to consider such expenditures as "illegal expenditures of public money" under the provisions of Section 117.28 of the Ohio Revised Code.

In an attempt to memorialize these budget items and policies in a more formal way following the 2003-2004 Audit of ICRC (for which Findings were issued in 2006), the ICRC Board of Directors adopted a Resolution and Policy setting forth more specifically the parameters of permissible expenditures under the previous budget categories. The ICRC was advised by the State Auditor's representative, during the October 2007 Audit of the years 2005-2006, that such a Resolution would put further questions as to the public purpose of such expenditures to rest. The Resolution was proposed and passed for that reason.

We would note that the case cited by the Auditor, *State ex rel. McClure v. Hagerman*, 155 Ohio St. 320; 98 N.E. 2d 835 finds a broad and broadening interpretation for the term "public purpose" as early as 1951. The fact alone that each such expenditure is not specifically identified and enumerated does not compel a finding that such expenditure is *not* for a public purpose, when by any reasonable interpretation it is. This interpretation is, in fact, supported by the core finding of the *Attorney General's Opinion* No. 82-006 on this very subject, to wit:

"Municipal funds may be expended to purchase coffee, meals, refreshments or other amenities for municipality officers, employees or other persons, if the legislative body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable." (OAG 82-006, at p. 1, syllabus 2.)

The approval of such expenditures over time and in accordance with long-standing policy under the authority of Board-approval budget line-items should not be overlooked in focusing the on Board's good faith attempt to satisfy both the spirit and the letter of the law by the passage of the Resolution, suggested by the Auditor, to put this matter in more precise order once and for all. Instead, the Resolution appears to be being viewed as an admission of past wrongdoing.

It seems unfortunate and unfair to argue that the failure of the ICRC Board to specifically call out "public purpose" language in its budget documents over the years or in some other specific form or policy statement should convert what is otherwise a perfectly acceptable and legally sanctioned business practice into an illegal expenditure of public money. This is a clear example of the exaltation of form over substance. It imputes bad faith where none is present, not to mention unproven, and may injure reputations for no apparent substantive reason.

**FINDING NUMBER 2006-001
(Continued)**

Finding for Recovery – Repaid Under Audit (Continued)

. . . If there is a receipt among all that is lacking in itemization, the assumption that it was intended to conceal and mislead, in the absence of any other indication than mere oversight, is unduly harsh and punitive.

Accordingly, and with all due deference to the very challenging task of the State Auditor in ensuring the accountability of public entities to the citizens of Ohio, the ICRC respectfully request that the Auditor review its opinion on this matter. The need to address any real or perceived laxness in this matter can be fully addressed and accounted for in the Independent Accountant's Report letter without inviting the consequences that may result from placing it on the same level as extortion, embezzlement, fraud and other serious crimes.

The above statement is submitted for your consideration and constitutes the Official's Response from the Intercommunity Cable Regulatory Commission. It has been prepared in consultation with Pat Stern, the Executive Director of the Commission.

Auditor of State's Conclusion

The Auditor of State's Office respectfully disagrees with the ICRC's interpretation of Ohio Attorney General Opinion No. 82-006. As the ICRC correctly states the Attorney General opined that "[m]unicipal funds may be expended to purchase coffee, meals refreshments or other amenities for municipal officers, employees or other persons, if the legislative body of the municipality has determined that such expenditures are necessary to further a public purpose and if its determination is not manifestly arbitrary or unreasonable." However, the ICRC's interpretation fails to take into account the fact that "since the decision to expend public funds for meals, refreshments or other amenities for persons other than employees is in a sense a legislative decision, it must be made in accordance with the procedural formalities governing the exercise of legislative power. Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and *may have prospective effect only.*" 1982 Op. Att'y Gen. No. 82-006 In the present case, the ICRC failed to obtain formal approval prior to making the expenditures. Instead, the ICRC passed a retroactive resolution authorizing the expenditures after they had been made.

It is important to note that the same type of expenditures resulted in Findings for Recovery – Repaid Under Audit in the 2001-2002 Financial Audit, and the 2003-2004 Financial Audit. The ICRC was repeatedly put on notice of the requirement for prior approval by the Board for proper public purpose expenditures.

The 2003-2004 Financial Audit specifically stated, in part, that "the determination of what constitutes a public purpose is primarily a legislative function. As such the decision to expend public funds "must be in accordance with the procedural formalities governing the exercise of legislative power. Specifically, the decision must be memorialized by a duly enacted ordinance or resolution and may have prospective effect only." 1982 Op. Att'y Gen. No. 82-006...Thus, to avoid an audit finding, the AOS will require that expenditures of public funds for coffee, meals, refreshments, or other amenities have prior authorization by the appropriate legislative authority...We recommend that the ICRC approve all required activity per Auditor of State Bulletin 2003-005 through the Board prior to holding events and prior to making purchases."

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**INTERCOMMUNITY CABLE REGULATORY COMMISSION
HAMILTON COUNTY**

**SCHEDULE OF PRIOR AUDIT FINDINGS
DECEMBER 31, 2006 AND 2005**

Finding Number	Finding Summary	Fully Corrected?	Not Corrected, Partially Corrected; Significantly Different Corrective Action Taken; or Finding No Longer Valid; <i>Explain</i>
2004-001	Finding for Recovery-Repaid Under Audit for Disbursements not for a clear proper public purpose.	No	Not Corrected. Condition repeated during 2006 and 2005. The Commission approved a related policy in 2007.
2004-002	Reportable Condition related to formal credit card use policies established.	No	Partial Corrected. A policy was established; however certain aspects of the policy were not implemented. Repeated in letter to management.



Mary Taylor, CPA
Auditor of State

INTERCOMMUNITY CABLE REGULATORY COMMISSION

HAMILTON COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
SEPTEMBER 2, 2008**