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From: Auditor of State's Center for Audit Excellence
To: All IPA Firms
Subject: Library Fact Sheet
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The attached Library Fact Sheet was developed to explain the differences in the various types of libraries, how each is created, differences in budgetary requirements, and some other unique differences (especially in Association Libraries). The fact sheet is meant to supplement guidance currently in the Ohio Compliance Supplement and/or other locations, and it should be reviewed by anyone performing/reviewing audits of libraries.

Fact sheets for other entity types will continue to be prepared and shared, as they become available.

Questions regarding the information provided within this fact sheet should be directed to Jesse Carroll at jmcarroll@ohioauditor.gov.

Auditor of State LIBRARY FACT SHEET

THIS FACT SHEET WAS CREATED MAY 2018 TO HELP CLARIFY AND PROVIDE GUIDANCE RELATED TO CERTAIN ELEMENTS THAT HAVE LED TO REPORTING INCONSISTENCIES IN SOME LIBRARY AUDITS. ¹

7 TYPES OF PUBLIC LIBRARIES:

ASSOCIATION - Governed by Articles of Incorporation.

- Taxing Authority is not set within Ohio Code.
- Service area - sometimes vaguely established within the Articles of Incorporation. Library boundary must be set by the State Library Board for the purposes of a property tax levy. The taxing authority used must have territory within the library district.
- Ohio Revised Code (ORC) - this type of library is not clearly dealt with in Chapter 3375 of the ORC, but information is found in Section 1713.28 "Organic rules may be prescribed in articles of certain corporations" of the ORC.
- Number in existence - 19
- See more on page 2

MUNICIPAL - Board of 7 members appointed by the municipal corporation legislative authority.

- Taxing authority is the municipal corporation.
- Service area is city in which it is located unless redefined by the State Library Board.
- ORC Sections 3375.12-3375.13
- Number in existence - 19

SCHOOL DISTRICT - Board of 7 members appointed by School District Board of Education.

- Taxing authority is the School District Board of Education.
- Service area is school district in which it is located unless redefined by the State Library Board.
- ORC Sections 3375.15-3375.18
- Number in existence - 148 (This sets us apart from other states; we have far more school district libraries than most other states.)

COUNTY - Board of 7 members appointed by the Judges of the County Court of Common Pleas.

- Taxing authority is the County Commissioners.
- Service area is the county within which it is located, leaving out any areas being served by other libraries.
- ORC Sections 3375.06-3375.08
- Number in existence - 3

COUNTY DISTRICT - Board of 7 members, 3 appointed by County Court of Common Pleas and 4 appointed by the County Commissioners.

- Taxing authority is the County Commissioners.
- Service area is set by resolution - usually all school districts within county currently not being serviced by another library.
- ORC Sections 3375.19-3375.24
- Number in existence - 58

TOWNSHIP - Board of 3 members appointed by the Township Trustees.

- Taxing authority is the Township Trustees.
- Service area is township in which it is located.
- ORC Sections 3375.09-3375.11
- Number in existence - 4

REGIONAL LIBRARY DISTRICT - This type of library would be created from two or more independent libraries in different counties desiring to merge. It is allowed for within the ORC but there have never been any in Ohio.

- ORC Sections 3375.28-3375.31
- Number in existence - 0

PUBLIC LIBRARY BUDGETARY CONSIDERATIONS

The majority of Ohio Rev. Code § 5705 budgetary laws apply only to "subdivision", "taxing units", and "taxing authorities". Public libraries do not fall under these definitions, therefore, Ohio Rev. Code § 5705 is not applicable. However, there are some other considerations:

Appropriations - There are no revised code requirements for appropriation measures for libraries; however, Ohio Admin. Code § 117-8-02 requires libraries to adopt appropriation measures, and prohibits expending more than appropriated. Auditors should never cite libraries for appropriation issues under any §5705 laws.

Legal level of Control - Additionally, Ohio Admin. Code § 117-8-02 does not specify the legal level of control, rather these measures will be used to establish the legal level of control at the discretion of each library. While there are some risks associated with a high legal level, auditors should only recommend a lower level when there is evidence that the current level is insufficient. Auditors should never cite libraries for an inappropriate legal level of control.

Estimated Resources - There are no legal requirements in the revised code or in the admin code related to budgeted revenues or estimated resources for public libraries (except association libraries, see above). However, sound budget practice suggests a library cannot appropriate responsibly without an estimate of resources to support the appropriations. Auditors may recommend a library establish a process to budget receipts, however, auditors should never cite libraries for not having such a process.

¹ This is meant to supplement, not supplant, guidance currently included in the [Ohio Compliance Supplement](#) and/or in other Auditor of State literature

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ASSOCIATION LIBRARIES

Ohio Rev. Code §5705.28(D) applies to association libraries and provides that to participate in the public library fund, they must

- 1) adopt appropriate rules extending the benefits of library service to all people in the county on equal terms, and
- 2) submit an estimate of revenue/expenditures to the taxing authority.

Association libraries receiving monies from the public library fund are subject to audit even though they are considered a not-for-profit. Any private money they receive **would remain private and be outside the purview** of the audit. However, auditors should scan the activity to determine whether public and private moneys were comingled, they would become subject to audit if they were.

Property Taxes

Association libraries do not have an assigned taxing authority like the other types of libraries do. They have to find another entity willing to put a levy on the ballot on their behalf either under Ohio Rev. Code §5705.21 (school districts) or Ohio Rev. Code §5705.19(D) (everybody else, e.g. municipalities, townships, counties). Ohio Rev. Code §3375.42 indicates "when a tax for library purposes has been so levied,...the county auditor shall certify the amount collected to the proper officer of the taxing district who shall forthwith draw a warrant for such amount ...to the proper officer of such library."

Reporting

There are no statutory or professional standards board reporting requirements mandating the private funds to be included in the annual financial statements. Therefore, not only are these monies not subject to audit, but they also do not need to be included in the annual financial statements. However, auditors are expected to review the articles of incorporation and other supporting documentation to evaluate the reporting entity under the applicable framework. Regardless, it is prudent practice to include, at least, a footnote disclosure describing the nature of the private moneys along with some explanation that those monies are outside the scope of the annual financial report. Additionally, auditors should draw attention to this in an emphasis of matter paragraph in the opinion.

DISTRICT AUTHORITY GUIDANCE

While the majority of Ohio Rev. Code Chapter 5705 doesn't apply to public libraries, Ohio Rev. Code § 5705.41 does apply when they are considered "district authorities". Public library boards, under certain circumstances, can be considered "district authorities". [1982 Op. Atty. Gen. No. 1982-056](#) concluded that a board of public library trustees deriving funds from two or more subdivisions is a district authority, subject to Ohio Rev. Code § 5705.41. The Opinion further provides:

- library funds derived from Ohio Rev. Code § 5707.04 property tax proceeds are actually funds derived from the state, rather than funds derived from two or more subdivisions,
- a special tax levied pursuant to Ohio Rev. Code § 5705.23 would similarly not be considered "funds derived from two or more subdivisions" since the taxing authority's role would be strictly ministerial.

However, the opinion goes on to give some examples of how a public library could meet the definition of "district authority." Including funds derived from two or more subdivisions by way of the following levies:

- [Ohio Rev. Code § 5705.06\(B\)](#),
- [Ohio Rev. Code § 5705.19\(D\)](#),
- [Ohio Rev. Code § 3375.07](#),
- [Ohio Rev. Code § 3375.23](#),
- [Ohio Rev. Code § 3375.09](#),
- [Ohio Rev. Code § 3375.18](#),
- [Ohio Rev. Code § 3375.31](#), and
- [Ohio Rev. Code § 3375.42](#).

For example, if a Township Free Public Library receives proceeds from a School District via Ohio Rev. Code § 3375.18 as well as from a Township via Ohio Rev. Code § 3375.09, then they would be considered a district authority and must follow Ohio Rev. Code § 5705.41. Whereas, if the same Township Free Public Library only received proceeds from a single Township via Ohio Rev. Code § 3375.09 they would not be considered a district authority.

Auditors should evaluate the activity in order to verify the library meets the definition of "district authority" before issuing any citations related to Ohio Rev. Code § 5705.41. Additionally, a public library may choose, by policy or practice, to implement certification/ purchase order controls similar to those required by Ohio Rev. Code § 5705.41. If that is the case and deficiencies or deviations from policy are identified, auditors may issue related comments (but they should still not refer to or cite Ohio Rev. Code § 5705.41).

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OTHER RESOURCES

AOS FOOTNOTES -

http://www.ohioauditor.gov/references/shells/regulatory/AOS_Regulatory_Basis_Library_Footnote_Shell_Dec%202017.docx

LIBRARY COUNCIL -

<http://olc.org/resources/publications/>

LIBRARY LISTING -

<https://library.ohio.gov/using-the-library/find-an-ohio-library/>

STATE LIBRARY QUARTERLY PUBLICATION -

<https://library.ohio.gov/about/publications/ohio-libraries-quarterly/>