

**AUDITOR OF STATE BULLETIN 2000-006**  
**MARCH 9, 2000**

TO: ALL SCHOOL DISTRICT TREASURERS  
ALL SCHOOL DISTRICT SUPERINTENDENTS  
ALL COMMUNITY SCHOOLS  
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: COMPENSATION OF SCHOOL DISTRICT OFFICIALS OR EMPLOYEES BY  
PRIVATE TRAVEL VENDORS

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It has recently come to our attention that some public school district officials and employees who arranged out-of-state or overnight field trips for students may have received cash compensation, gifts or other things of value (hereafter collectively referred to as "compensation") from the private travel agents, tour operators and/or bus companies (hereafter "private travel vendors") with whom the field trips were booked. Public school district officials and employees should be aware that the receipt and acceptance of such compensation poses significant auditing issues and may possibly pose significant legal issues as well.

Ohio Rev. Code § 117.01(C) defines "public money" to be "any money received, collected by, or due a public official under color of office, . . ." School district board members, superintendents, administrators, principals and teachers are all "public officials" for the purposes of that definition. Ohio Rev. Code § 117.01(E). When arranging, booking or approving field trips through or with private travel vendors, school district officials and employees are acting under "color of office" as that term is defined in Ohio Rev. Code § 117.01(A). In the situations that have come to the attention of the Auditor of State's Office, the compensation paid to the school district official or employee by the private travel vendor would not have been paid but for the official or employee using the authority of his or her public office to choose the vendor, which is then paid for the field trip with public money. For these reasons, the Auditor of State's Office is taking the position that any compensation paid by a private travel vendor to a school district official or employee after the official or employee has participated in selecting the vendor to provide a field trip is "public money" and must be remitted to the school district.

The Auditor of State's Office will be scrutinizing such field trips in all school district audits for the fiscal year ending June 30, 2000. In advance of our audits, Boards of Education, superintendents and treasurers should identify all field trips that were arranged or taken since July 1, 1999 and assure themselves that any compensation received by any school district official or employee is or has been remitted to the district. Auditors will also be examining district policies and procedures regarding school district officials' or employees' receipt of compensation from any individuals or entities that do business with the district.

School districts also should be aware that an individual district official's or employee's receipt of compensation from private vendors doing business with the district may raise serious issues under one or more of Ohio's ethics laws, particularly Ohio Rev. Code §§ 102.03, 2921.42 and 2921.43. The Auditor of State's Office has requested more definite guidance from the Ohio Ethics Commission on

the issue of whether a school district official's or employee's receipt of compensation from a private travel vendor where the official or employee had a role in selecting the vendor for a field trip violates any of the criminal statutes under Ohio's ethics law and related statutes.

For the purposes of Ohio's ethics laws, the Ohio Ethics Commission has ruled that Board of Education members,<sup>1</sup> school district superintendents,<sup>2</sup> principals,<sup>3</sup> and teachers<sup>4</sup> are subject to Ohio's ethics laws.<sup>5</sup> In addition, community schools created pursuant to Chapter 3314 of the Revised Code are subject to the ethics laws, with some limited exceptions. Ohio Rev. Code § 3314.03(A)(11)(e). Generally, the ethics laws prohibit a public official or a public employee from (a) using the authority or influence of his or her public office to receive additional compensation for performing their ordinary duties, (b) securing any interest in a public contract, or (c) receiving anything of value that may serve to improperly influence the official in the conduct of his or her duties. *See* Ohio Rev. Code §§ 2921.43(A), 2921.42(A) and 102.03(D), (E) and (F). These statutes are *criminal* statutes and violators may be subject to jail time, fines or both.

When the Ethics Commission's guidance is obtained, our Office will disseminate the guidance in a future Bulletin. If you have any questions regarding any of the issues raised in this Bulletin, contact your regional Auditor of State office or contact our Legal Division in Columbus at (800) 282-0370.

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<sup>1</sup>Ohio Ethics Commission Advisory Opinion Nos. 89-005 and 82-003

<sup>2</sup>Ohio Ethics Commission Advisory Opinion No. 98-003

<sup>3</sup>Ohio Ethics Commission Advisory Opinion No. 91-006

<sup>4</sup>Ohio Ethics Commission Advisory Opinion Nos. 94-002 and 93-017

<sup>5</sup>It must be noted that the Ethics Commission has opined that teachers are considered "public officials" under Ohio Rev. Code § 102.03 only if they perform or have the authority to perform administrative or supervisory duties. However, teachers are considered "public officials" under Ohio Rev. Code §§ 2921.42 and 2921.43 regardless of whether they perform or have the authority to perform such duties. Ohio Ethics Commission Advisory Opinion No. 93-017.

**AUDITOR OF STATE BULLETIN 2000-008  
MAY 2, 2000**

TO: ALL COUNTY AUDITORS  
ALL CITY AUDITORS, FINANCE DIRECTORS & TREASURERS  
ALL VILLAGE FISCAL OFFICERS  
ALL SCHOOL DISTRICT TREASURERS  
ALL EDUCATIONAL SERVICE CENTER TREASURERS  
ALL TOWNSHIP CLERKS  
ALL LIBRARY CLERKS/TREASURERS  
ALL JOINT FIRE DISTRICT FISCAL OFFICERS  
ALL FIRE AND AMBULANCE DISTRICT FISCAL OFFICERS  
ALL JOINT RECREATION DISTRICT FISCAL OFFICERS  
ALL PARK DISTRICTS  
ALL JOINT ADAMH FISCAL OFFICERS  
ALL UNION CEMETERY DISTRICT FISCAL OFFICERS  
ALL PORT AUTHORITY FISCAL OFFICERS  
ALL AIRPORT AUTHORITY FISCAL OFFICERS  
ALL WATER AND SEWER DISTRICT FISCAL OFFICERS  
ALL TOWNSHIP WASTE DISPOSAL DISTRICT FISCAL OFFICERS  
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: ACCOUNTING FOR CASH BASIS LOCAL GOVERNMENTS' PARTICIPATION  
IN ON-BEHALF-OF GRANTS OR IMPROVEMENT PROJECTS<sup>1</sup>

Many local governments are the beneficiaries of programs commonly carried out or administered by other local governments or the State. Many of these grant programs or capital improvement projects (hereafter referred to as "program") are administered such that the benefitting governments do not receive cash or make disbursements as part of the program (for example, certain Issue II or CDBG programs). This bulletin describes the proper accounting treatment for these "on-behalf-of" programs.

Cash Accounting

When a local government enters into an on-behalf-of program agreement with another local government or the State (or the federal government, if applicable), whereby the local government or its residents are the beneficiaries under the agreement, the cash value benefit of the program received under the agreement should be recorded as memorandum receipts and disbursements in the year on-behalf-of disbursements are made.

This accounting treatment should only be applied when a local government or its residents are the recipients of benefits as evidenced by an agreement or an approved program application (This might include a consortium application where a group of local governments enter into an agreement as a consortium and the consortium is not a legally separate entity.<sup>2</sup>) A local government should not record any program transactions if the government has not entered into an agreement or has not been approved for program participation as a result of its request for participation. That is, transactions should not be recorded if the local government benefits solely as a consequence of a program carried out or

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<sup>1</sup> Though this Bulletin is intended primarily for cash basis local governments, local governments reporting under Generally Accepted Accounting Principles may find this guidance helpful when considering the application of Statement No. 24 of the Governmental Accounting Standards Board. ←

<sup>2</sup> For purposes of this Bulletin, the consortium fiscal agent may use any reasonable method to allocate receipt and disbursement activity of the consortium among consortium participants. However, be aware that a particular grant may provide specific allocations among consortium participants in which case those allocations should be used.

There have been some amendments to GASB 24. The current requirements are codified in Section N 50.

administered by another party.

For example, suppose the Ohio Department of Transportation administers a program which widens and repaves a five-mile section of state highway located within the Village of XYZ's boundaries. The Village has not applied for funding or entered into an agreement related to the project<sup>3</sup>. However, the improvements benefit the Village by providing increased access for tourists. In this case the Village would not record any receipts or disbursements related to the project.

Suppose, however, that the Village submits an application to XYZ County for participation in the County's CDBG-funded annual improvement project. The County approves the Village's application for a sidewalk replacement project, and the County advertises for bids, awards the contracts, and pays the vendors directly. In this case, even though the Village did not receive any payment or make any disbursements related to the project, the Village should record receipts and disbursements for the amount of the project payments made on-behalf-of the Village.

Note: When a local government makes on-behalf-of program disbursements for the benefit of another local government, the Auditor of State recommends that the disbursements be recorded as intergovernmental. This treatment prevents two governments from reporting operating or capital disbursements for the same grant. Also, GASB Statement No. 24 provides guidance regarding the fund type to be used when a government receives financial assistance to spend on-behalf-of a secondary recipient. In general, a government receiving such assistance should record the related receipts and disbursements in a governmental fund (though a proprietary or trust fund might also be appropriate). However, if the government has no administrative responsibility the financial activity should be recorded in an agency fund (This would be infrequent.)

Budgetary Accounting (for entities subject to Ohio Revised Code Chapter 5705)

The legislative authority should approve, by resolution, the grant or project application and must establish any fund(s) necessary to meet the grant or project objectives. Auditor of State permission for fund establishment is not necessary, although it may be necessary to obtain a fund number from the Auditor of State if one has not been previously assigned.

Once the grant is awarded or the application is approved, the fiscal officer must obtain an official certificate of estimated resources or an amended certificate of estimated resources for all or part of the grant or project, based on the expected cash disbursements to be made on the local government's behalf in the current fiscal year. Any on-behalf-of payments expected to be made in the next year should be reflected on the next year's certificate<sup>4</sup>.

The fiscal officer shall record the appropriations in accordance with the terms and conditions of the grant or project agreement. In addition, prior to recording the appropriations, Ohio Rev. Code § 5705.40 requires the legislative authority to pass a resolution amending its appropriation measure.

If the grant or project will be expended over a period longer than the current fiscal year, only the amount expected to be obligated during the current fiscal year should be recorded as appropriated. The remainder of the project should be appropriated in the subsequent year(s)<sup>5</sup>.

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<sup>3</sup> Some local governments do participate in certain ODOT projects as part of a formal agreement, with matching requirements.

<sup>4</sup> However, if the local government, with the exception of a school district, has budgeted on a project length basis pursuant to Ohio Rev. Code § 9.34(B), the fiscal officer must obtain an official certificate of estimated resources for the entire project length fiscal period. If the project length basis is used, the local government would appropriate the entire project amount.

<sup>5</sup> See footnote 4.

Other Matters

Local governments participating in on-behalf-of programs should review program documents and/or contact the awarding entity to determine the estimated and actual on-behalf-of disbursements for the fiscal year. These amounts should be used, respectively, for the budgetary and cash accounting treatment described above.

For federally funded programs, application of this accounting treatment will generally be an indication that the local government is a subrecipient of federal financial assistance, however, each agreement must be evaluated individually. When a local government has not applied for funding or entered into an agreement, as discussed in the ODOT example above, it will generally not be considered a subrecipient of federal financial assistance. When determining whether or not the local government is a subrecipient of federal financial assistance, the guidance provided by Office of Management and Budget (OMB) Circular A-133 should be considered <sup>6</sup>.

Township officials are compensated based on annual budgets. The application of this accounting treatment and the related budgetary accounting may alter the budget amounts on which officials' compensation is based (see Auditor of State Bulletin 99-008.)

If you have any questions regarding this matter, please contact your regional Auditor of State's Office.

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<sup>6</sup> OMB Circular ~~A-133 section .205 (a)~~ states in part, that the determination of when an award is expended should be based on when the activity related to the award occurs. This section further states, that generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and provisions of contracts or grant agreements. ~~A-133 Section .105~~ defines *Subrecipient* as a non-Federal entity that expends federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. ~~A-133 Section .105~~ defines *Federal Financial Assistance* to include assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

Under these sections, a local government should generally be considered a subrecipient when it receives cash or non-cash assistance under a federal program for which the local government has significant administrative or compliance responsibility.

Now included in Uniform Guidance §200.502

Now in §200.93

Now in §200.40.

# AUDITOR OF STATE BULLETIN 2000-014

## September 11, 2000

TO: ALL SCHOOL DISTRICT TREASURERS  
ALL EDUCATIONAL SERVICE CENTER FINANCE OFFICERS  
ALL LIBRARY CLERKS/TREASURERS  
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: The E-Rate Program: Single Audits and Revision to Accounting Requirements

### Background

On May 7, 1997, the Federal Communications Commission (FCC) adopted a universal service order to implement the Telecommunications Act of 1996. The Order permits eligible schools and libraries to apply for telecommunication and related services ("E-Rate") discounts.

### Single Audit Considerations

There has been uncertainty regarding whether E-rate discounts constitute Federal financial assistance, subject to the single audit and reporting requirements of ~~Office of Management and Budget Circular A-133~~. The State's cognizant agent recently concluded that the E-rate program is **not** subject to ~~OMB Circular A-133~~. School districts, educational service centers and libraries should not include the program on their schedules of Federal awards expenditures.

Single Audit guidance is now in 2 CFR 200.501.

### E-Rate Information

The FCC formed the Schools and Libraries Corporation (SLC) to administer the E-Rate program. Schools and libraries must apply to SLC to participate in the program. More information regarding the E-rate program (including the application process) is available at the following:

Schools and Libraries Corporation  
P.O. Box 4217  
Iowa City, Iowa 52244-4217  
Phone: 888/203-8100  
Website: [www.sl.universalservice.org](http://www.sl.universalservice.org)

Schools and libraries must use the savings discounts for telecommunications services, Internet access or other eligible purposes. They should retain documentation supporting that the discounts were spent for eligible purposes.

### Accounting for E-Rate

This Bulletin supersedes the E-Rate guidance provided in Auditor of State Bulletin 99-007. Due to the relatively small amounts involved, entities no longer need a separate fund to account for these credits or reimbursements.

Entities need not record discounts paid on their behalf, through the Universal Service Fund, as a receipt and utility disbursement.

**AUDITOR OF STATE BULLETIN 2000-015  
SEPTEMBER 21, 2000**

TO: ALL SCHOOL DISTRICT TREASURERS  
ALL SCHOOL DISTRICT SUPERINTENDENTS  
ALL COMMUNITY SCHOOLS  
ALL INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: COMPENSATION OF SCHOOL DISTRICT OFFICIALS OR EMPLOYEES BY  
PRIVATE TRAVEL VENDORS

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On March 9, 2000, the Auditor of State's Office issued AOS Bulletin 2000-06, a copy of which is attached. Our Office issued that Bulletin in response to a situation we discovered during the audit of a school district. In that particular audit, we learned that a tour bus company had paid a school principal after the principal had selected the company to provide an out-of-state field trip for the school's students. When we contacted the tour bus company for an explanation of the payment to the principal, its representatives replied that such a payment was a standard practice.

Because of the serious implications of this practice, we decided to issue Bulletin 2000-06. In that Bulletin, we stated that "the Auditor of State's Office has requested more definite guidance from the Ohio Ethics Commission on the issue of whether a school district official's or employee's receipt of compensation from a private travel vendor where the official or employee had a role in selecting the vendor for a field trip violates any of the criminal statutes under Ohio's ethics law and related statutes." We also stated that when the Ethics Commission's guidance was obtained, we would disseminate it in a future Bulletin.

On August 16, 2000, the Ohio Ethics Commission issued its Advisory Opinion No. 2000-04 in response to our request. A copy of the Ethics Commission's opinion is attached for your review. The Auditor of State's Office urges all school district superintendents, treasurers and business officials to carefully review the Ethics Commission's opinion and to share the same with the district's legal counsel.