

Date: February 13, 2002
Bulletin 2002-002

AUDITOR OF STATE BULLETIN

TO: MAIN BRANCH LIBRARY CLERK-TREASURERS
EDUCATIONAL SERVICE CENTERS - FINANCE OFFICERS
EDUCATIONAL SERVICE CENTERS - BOARDS OF EDUCATION
COMMUNITY SCHOOLS
CITY AUDITORS/FINANCE DIRECTORS/TREASURERS
CITY LAW DIRECTORS/SOLICITORS/ ATTORNEYS
CITY BOARDS OF HEALTH
VILLAGE CLERK-TREASURERS/FINANCE DIRECTORS
TOWNSHIP TRUSTEES
SCHOOL DISTRICT TREASURERS
COUNCIL OF SCHOOLS/EDUCATION RELATED
JOINT VOCATIONAL SCHOOL DISTRICT TREASURERS
BOARDS OF EDUCATION
CITY MAYORS/CITY MANAGERS
VILLAGE MAYORS
VILLAGE ADMINISTRATORS
VILLAGE LAW DIRECTORS/SOLICITORS/ ATTORNEYS
TOWNSHIP CLERKS
TOWNSHIP ADMINISTRATORS
COUNTY AUDITORS
COUNTY FAMILY & CHILDREN FIRST COUNCILS
COUNTY TREASURERS
COUNTY COMMISSIONERS
COUNTY ADAMH SERVICES BOARDS
COUNTY BOARDS OF HEALTH
PARK DISTRICTS
COUNTY & INDEPENDENT FAIRS
COUNTY ADMINISTRATORS
PUBLIC MEDICAL COLLEGES
PUBLIC TECHNICAL COLLEGES
COLLEGE FOUNDATIONS
TRANSIT AUTHORITY BOARDS
PORT AUTHORITIES
FIRE & AMBULANCE DISTRICTS
WATERSHED CONSERVANCY DISTRICTS
SPECIAL DISTRICTS
ECONOMIC DEVELOPMENT & PLANNING AGENCIES
COMMUNITY IMPROVEMENT CORPORATIONS
PUBLIC UNIVERSITY FISCAL OFFICERS
PUBLIC COMMUNITY COLLEGE FISCAL OFFICERS
METROPOLITAN HOUSING AUTHORITIES
AIRPORT AUTHORITIES
SOIL & WATER CONSERVATION DISTRICTS
WATER & SEWER DISTRICTS

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TO: CEMETERIES
COUNCILS OF GOVERNMENT
HOSPITALS
VETERANS ORGANIZATIONS
COMMUNITY DEVELOPMENT CORPORATIONS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: DEMUTUALIZATION OF INSURANCE COMPANIES

The Prudential Insurance Company and Anthem Blue Cross and Blue Shield Insurance Company have recently completed plans to convert from private mutual insurance companies to publicly traded insurance companies (a process known as "demutualization"). Generally, policyholders of mutual insurance companies are considered "members" of the mutual insurance company and are entitled to vote on organizational matters such as the election of officers. As a result of these demutualizations, eligible members of each company will receive cash or shares of the companies' new publicly traded common stock in exchange for their membership interests in the former mutual insurance companies. Those eligible members who receive stock will become stockholders of the new public insurance companies.

Members of each company should have already received information regarding their rights as policyholders or eligible members as it relates to the two companies' respective conversions to publicly traded companies. The purpose of this Bulletin is to provide guidance to public bodies regarding accounting and compliance issues related to the distribution of stock and/or cash received by the public body as a result of these conversions.

It is important to note that as a result of the demutualization process, some public body employees may receive stock and/or cash directly from the insurance companies. This is a result of the employee being deemed as having ownership rights as a member of the mutual insurance company under the mutual insurance company's plan of conversion. Therefore, an employee who has received stock and/or cash directly from the insurance company is being compensated in exchange for his or her deemed membership interest in the mutual insurance company. As such, it would appear that those employees receiving cash or stock directly should retain the cash or stock regardless of the public employee's and employer's respective contributions to the employee's premium in any group policy covering the employee.

In some instances, the party eligible for the payment of cash or stock would be the public body itself. If a public body received stock pursuant to a mutual insurance company's

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plan of conversation, management should be advised that Article VIII, Sections 4 and 6 of the Ohio Constitution, prohibit public bodies from becoming a "stockholder in any joint stock company, corporation or association." That being said, Article VIII, Section 6 of the Constitution provides an exemption which allows public bodies to purchase insurance from mutual insurance companies. Therefore, because any such Prudential or Anthem stock initially received by a public body because of the companies' demutualization can be said to have been derived from the public body's constitutionally permissible purchase of insurance from a mutual insurance company, the Auditor of State will not cite nor issue a Finding for Recovery against a public body that has received stock in this way. However, because of the constitutional prohibition on public bodies being stockholders in public corporations, the Auditor of State's recommendation is that each public body receiving stock should sell the stock at a reasonably prompt and beneficial time at the discretion of the public body.

Public bodies that receive cash directly from Prudential or Anthem or as a result of the sale of their stock may deposit and record it at their discretion. The Auditor of State does not consider such monies to be a "rebate," which would require it to be recorded in the funds from which the insurance premiums were paid. Nor do we consider it "interest earned on public money," which in most cases would require it to be recorded in the general fund. Therefore, our recommendation is that in a public meeting, the legislative body or governing board of each public office should determine the fund into which the cash will be recorded and that decision should be reflected in the minutes of that meeting.

Questions regarding this Bulletin may be directed to the Legal Division of the Auditor of State's Office at 614-752-8683 or 1-800-282-0370.

Date: May 28, 2002
Bulletin 2002-004

AUDITOR OF STATE BULLETIN

TO: CITY AUDITORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS
COUNTY ENGINEERS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PUBLIC WORKS COMMISSIONS INFRASTRUCTURE PROJECT
ACCOUNTING (ISSUE 2 MONEY)

The purpose of this advisory bulletin is to inform you of the accounting treatment for infrastructure projects funded through the Ohio Public Works Commission (OPWC). This bulletin updates and combines the guidance provided in prior bulletins on State Issue 2 grants (MAS Bulletin 89-17) and the retainage on contracts (MAS Bulletin 89-11).

A - Establishment of Fund(s)

All local governments participating in Issue 2 Funds (single or multi-project grant) must, for each project awarded, establish a capital projects fund to account for both the Issue 2 monies and local matching funds. It is not necessary to obtain authorization from the Auditor of State to establish the fund(s) because the authority exists under Section 5705.09 of the Ohio Revised Code. The purpose of the fund is to account for the related revenues and expenditures to the extent the local government has received benefit from the project.

The appropriate fund numbers are:	County	Assigned by County
	City	Assigned by City
	Township	14
	Township UAN	4401-4499
	Village	D1
	Village UAN	4901-4499

B - Local Government Matching Requirement

The local governments matching requirement may be satisfied with note or bond proceeds, loans, other grants designated for the same purpose, monies available from other funds of the local government, or labor, materials and equipment that will be contributed to the project by the local government.

In a case where monies available from other funds (i.e., General Fund) will be used to meet matching requirements, the local government shall transfer these monies, providing statutory authority exists for the transfer of the monies, to the capital projects fund. If the authority does not exist for the transfer of monies to the capital projects fund, (i.e., gas

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tax, motor vehicle registration fees, street construction, road and bridge funds) then the local governments shall appropriate and expend its matching requirement directly from the other fund if lawfully permitted. It is the local government's responsibility to establish the appropriate account codes to segregate these expenditures from the other expenditures of the fund. Segregation of these expenditures is essential in demonstrating compliance with the matching requirement.

In a case where the local government has approval to contribute labor, materials and equipment, or engineering costs to meet matching requirements, all efforts should be made to record the costs in the project fund. This situation may require interfund billings.

C - Certificate of Estimated Resources and Appropriations

The local government shall include in its official or amended certificate of estimated resources the amount of Issue 2 monies anticipated to be received into the project fund during the fiscal year, along with its matching requirements, if appropriate. The fund appropriations should include the amount necessary to meet the obligations to be incurred during the fiscal year. If the project is not expected to be completed in the current year, the remainder of the project must be appropriated immediately in the subsequent year(s).

In situations when the grant or loan will be received after the expenditures have been incurred, it is possible that the local government will have appropriated an amount in one fiscal year that is in excess of the amount reflected as available on the amended certificate of estimated resources. This situation will not constitute a noncompliance citation during an audit. This approach is only acceptable when the eventual receipt of the resources to pay for the full amount of the contract is certain, such as when the money will be coming from the State or Federal government based on an approved grant.

D - Recording of Issue 2 Monies

The OPWC will make payments to the contractor(s) for its share based on invoices submitted by the fiscal officer or to the local government as a reimbursement. For payments made to the contractor, the State will notify the fiscal officer of the amount disbursed. Upon receipt of this notice, each local government shall record a receipt and expenditure in the capital projects fund equal to the amount disbursed by the OPWC.

E - Multi-Project Grants

In situations where one local government agrees to act as fiscal agent for a multi-project grant, the fiscal agent should establish an agency fund for the collection of participating subdivisions' matching shares, and the subsequent payments to the contractors, if the

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agreement between the subdivisions calls for the collection of matching shares. The project manager, chief fiscal officer and chief executive officer designated in the grant agreement are responsible for maintaining a complete set of records to account for the complete project, including notification to each participating subdivision of revenues and expenditures it should post to its own capital projects fund, and the basis of any proration used. In order to accomplish this, it will be necessary to obtain either engineer or contractor cooperation to determine which subdivision(s) benefit from each invoice, and the respective amounts.

F - Accounting for Project Receipts and Expenditures Accurately

Each local government participating in a multi-project grant (one grant awarded to a group of local governments) needs to be able to identify the project activity related to their own government. Unless this information is provided to the local government by the project manager, fiscal officer or other appropriate parties, the accounting records will not accurately reflect the local government's portion of the project. It will also be necessary for each participating local government to receive this information on a timely basis. Receiving information on a timely basis will enable the local government to record the activity in the proper accounting period and will facilitate the preparation of accurate financial reports.

G - Retainage Requirements

Section 153.13 of the Revised Code establishes that for contracts of \$15,000 or greater, the amount of the retainage is to be withheld from the first 50 percent of the payments made. When the invoice which would put the project at or over 50 percent completed is processed, the total contracted retainage amount which has been retained (8 percent from the first 50 percent of payments) should be placed in escrow (in a separate bank account or otherwise in conjunction with the provisions of Section 153.63 of the Revised Code).

Please note that in regard to the fund to be used, the capital projects fund can and should account for payments and continue to hold the retainage. There is no need for a separate fund. Rather, in the case of complying with Section 153.63 of the Revised Code, the emphasis should be in meeting the escrow requirements.

As an example, if we assume the capital projects fund is being used and a \$100,000 contract exists with a 4 percent retainage, (8 percent of the payments made up to the 50 percent point as described in Sections 153.12 and 153.14 of the Revised Code), one could track through the escrow as follows:

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Invoice Received and Payment Requested		Amount Paid	Amount Retained No Escrow	Amount in Escrow
#1	\$20,000	\$18,400	\$1,600	-0-
2	20,000	18,400	1,600	-0-
3*	20,000	19,200	-0-	\$4,000
4	20,000	20,000	-0-	4,000
5	20,000	20,000	-0-	4,000

* At the third payment, the 50 percent completed point was reached and the \$3,200 retained from the first 2 payments, plus the \$800 from the third payment was placed in escrow. Please note that the total retainage of \$4,000 was reached from the first 50 percent of the payments. At the 50 percent completed point, all retainage was placed in escrow.

Turning our attention to the fund involved, we find the following:

Invoice Received and Payment Requested		Fund Balance	Balance in Regular Bank Account	Balance in Escrow Account
Beginning Balance		\$100,000	\$100,000	-0-
#1	\$20,000	81,600	81,600	-0-
2	20,000	63,200	63,200	-0-
3**	20,000	44,000	40,000	\$4,000
4	20,000	24,000	20,000	4,000
5	20,000	4,000	-0-	4,000
Escrow is paid		-0-	-0-	-0-

** The 50 percent completed point is reached. The governmental entity should obtain a monthly bank statement or other monthly accounting of the escrowed money from the escrow agent to use as a reconciliation item in the monthly cash reconciliation.

Date: August 26, 2002
Bulletin 2002-005

AUDITOR OF STATE BULLETIN

TO: CITY AUDITORS
COUNTY AUDITORS
TOWNSHIP CLERKS
VILLAGE CLERKS
INDEPENDENT PUBLIC ACCOUNTANTS

SUBJECT: PUBLIC WORKS COMMISSION CLEAN OHIO GRANTS

Amended Substitute House Bill No. 3, effective July 26, 2001, created the Clean Ohio Program (the Program). The Program provides grants for "Brownfield" environmental clean up projects and "Greenfield" open space and conservation preservation projects.

The Clean Ohio program has four sub-programs providing grants for specific purposes. Information concerning the State agency responsible for the grants, the purpose, applications, and the approval process can be obtained from the following:

Clean Ohio Fund grants now consist of the following 4 grants, based on the website. Information for all 4 grants are at <https://development.ohio.gov/CleanOhio/>.

- Brownfield Revitalization
- Farmland Preservation
- Green Space Conservation
- Recreation Trails

~~Clean Ohio Revitalization Grants, Ohio Department of Development~~

~~<http://www.odod.state.oh.us/UD/CleanOhioFund.htm>~~

~~Clean Ohio Conservation Grants, Ohio Public Works Commission~~

~~http://www.pwc.state.oh.us/clean_ohio.htm~~

~~Clean Ohio Agricultural Easement Grants, Ohio Department of Agriculture~~

~~<http://www.state.oh.us/agr/CleanOhioFund/CleanOhioFundIndex.htm>~~

~~Clean Ohio Trail Grants, Department of Natural Resources~~

~~<http://www.dnr.state.oh.us/cleanohiofund/admin.htm>~~

The brownfields and open space programs require significant involvement of the district public works integrating committees, natural resource assistance councils and the Ohio Public Works Commission (OPWC). As part of that program, the OPWC will administer the Clean Ohio Conservation Program, which provides grants for qualified land acquisitions and site improvements.

Establishment of Funds

All local governments participating in any Clean Ohio grants must, for each project awarded, establish a capital projects fund to account for both the grant monies and local matching funds. It is not necessary to obtain authorization from the Auditor of State to establish the fund(s) because the authority exists under Section 5705.09 of the Ohio Revised Code. The purpose of the fund is to account for the related revenues and expenditures of the grant program.

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The appropriate fund numbers are:	County	Assigned by County
	City	Assigned by City
	Township	21
	Township UAN	4901-4999
	Village	D3
	Village UAN	4901-4999

Local Government Matching Requirement

The local government's matching requirement may be satisfied with note or bond proceeds, loans, other grants designated for the same purpose, monies available from other funds of the local, government, or labor, materials and equipment that will be provided to the project by the local government. The local match may also include in-kind contributions or the donation of equipment, land, easements, labor, or materials necessary to complete the project.

In a case where monies available from other funds (i.e., general fund) will be used to meet matching requirements, the local government shall transfer these monies, providing statutory authority exists for the transfer of the monies, to the capital projects fund. If the statutory authority does not exist for the transfer of monies to the capital projects fund, then the local government shall appropriate and expend its matching requirement directly from the other fund if lawfully permitted. It is the local government's responsibility to establish the appropriate account codes to segregate these expenditures from the other expenditures of the fund. Segregation of these expenditures is essential in demonstrating compliance with the matching requirement.

In a case where the local government has approval to contribute labor, materials and equipment, or engineering costs to meet matching requirements, all efforts should be made to record the costs in the project fund. Labor costs should be supported by time sheets or other appropriate documentation. This situation may require interfund billings.

Certificate of Estimated Resources and Appropriations

The local government shall include in its official or amended certificate of estimated resources the amount of Clean Ohio grant anticipated to be received into the project fund during the fiscal year along with its matching requirements, if appropriate. The fund appropriations should include the amount necessary to meet the obligations to be incurred during the fiscal year. If the project is not expected to be completed in the current year, the remainder of the project must be appropriated immediately in the subsequent year.

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In situations when the grant will be received after the expenditures have been incurred, it is possible that the local government will have appropriated an amount in one fiscal year that is in excess of the amount reflected as available on the amended certificate of estimated resources. This situation will not constitute a noncompliance citation during an audit. This approach is only acceptable when the eventual receipt of the resources to pay for the full amount of the contract is certain, such as when the money will be coming from the State or Federal government based on an approved grant.

Recording of Clean Ohio Grants

OPWC will make payments to the contractor(s) for its share based on invoices submitted by the fiscal officer or to the local government as a reimbursement. For payments made to the contractor, the OPWC will notify the fiscal officer of the amount disbursed. Upon receipt of this notice, each local government shall record a receipt and expenditure to the capital projects fund equal to the amount disbursed by the OPWC.

In the case of a land purchase, OPWC may disburse payment to a title agent based upon an escrow agreement or as a reimbursement to the local government. Grant proceeds disbursed to a title agent shall record a receipt and expenditure to the capital projects fund equal to the amount disbursed by the OPWC.

Clean Ohio Program - Long Term Ownership and Control Requirements

Land, or rights in land acquired with funds from the Clean Ohio Conservation grants shall remain in the ownership and control of the grant recipient in perpetuity. Any future transfer of ownership and control must be approved in writing by the Director of the Ohio Public Works Commission (the Director). Grant recipients shall, at the time of transfer of land or rights to land to the grantee, record deed restrictions or conservation easements which are commensurate with the nature and purpose of the lands, or interests in lands, acquired as stated in the respective project application. Proposed deed restrictions or conservation easements shall be submitted to the Director for written approval prior to the disbursement of Clean Ohio Conservation Fund monies for the proposed acquisition.

Recorded restrictions and conservation easements shall be perpetual and may not be modified or extinguished without the advance written approval of the Director. A copy of the recorded deed restrictions, or conservation easement, shall be provided to the Director within thirty (30) days of their recording. Failure to record deed restrictions or conservation easements approved by the Director within the 30-day time period stated above shall require the grantee to make immediate repayment of all Clean Ohio Conservation Fund monies disbursed for the project. Any future modification or breach of the recorded deed restrictions or conservation easements that occur without the

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advanced written approval of the Director shall result in the imposition of a penalty on the entity responsible for the breach equal to twice the Clean Ohio Conservation Fund monies disbursed for the project, plus compounded interest at six percent (6%) per annum or twice the appraised value of the property or easement, whichever is greater.

In accepting a grant from the Clean Ohio Conservation Fund, the grantee agrees to the conditions stated above as well as the full enforcement authority of the Director of the Ohio Public Works Commission.

Retainage Requirements

Section 153.13 of the Revised Code establishes that for contracts of \$15,000 or greater, the amount of the retainage is to be withheld from the first 50 percent of the payments made. When the invoice which would put the project at or over 50 percent completed is processed, the total contracted retainage amount which has been retained (8 percent from the first 50 percent of payments) should be placed in escrow (in a separate bank account or otherwise in conjunction with the provisions of Section 153.63 of the Revised Code.) Local governments may be required to meet the escrow requirements from the matching funds for the project.

Please note that in regard to the fund to be used, the capital projects fund can and should account for payments and continue to hold the retainage. There is no need for a separate fund. Rather, in the case of complying with Section 153.63 of the Revised Code, the emphasis should be in meeting the escrow requirements.

As an example, if we assume the capital projects fund is being used and a \$100,000 contract exists with a 4 percent retainage, (8 percent of the payments made up to the 50 percent point as described in Sections 153.12 and 153.14 of the Revised Code), one could track through the escrow as follows:

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3** 20,000	44,000	40,000	\$4,000
4 20,000	24,000	20,000	4,000
5 20,000	4,000	-0-	4,000
Escrow is paid	-0-	-0-	-0-

** The 50 percent completed point is reached. The governmental entity should obtain a monthly bank statement or other monthly accounting of the escrowed money from the escrow agent to use as a reconciliation item in the monthly cash reconciliation.

Questions concerning this bulletin may be addressed to the Local Government Services Division at ~~(800) 345-2519~~.

 (614)466-4717

Date: October 29, 2002
Bulletin 2002-009

AUDITOR OF STATE BULLETIN

TO: ALL HEADS OF STATE AGENCIES

SUBJECT: REPRESENTATION LETTERS - SECTION 117.17, REVISED CODE

In accordance with Ohio Rev. Code Section 117.17, prior to leaving office, the head of a state agency shall prepare, in the form designated by the auditor of state, a letter of representation for his or her successor in office. This letter shall contain an inventory of all properties, supplies, furniture, credits, moneys, and any other items belonging to the state, which it is the duty of such official to turn over to his or her successor in office or pay into the state treasury. A copy of this representation letter shall be delivered to the successor in office, the governor, the auditor of state, and the attorney general.

The prescribed format for the letter of representation is attached to this bulletin. Departing heads of state agencies should include a listing of all properties of the agency, not just those assigned directly to the official with the letter of representation. The inventory listing should include: name of item, agency tag number, serial number, location, dollar amount, and all other pertinent information that would assist in identifying and locating the item. Additionally, any credit cards, cash, or cash equivalents should be separately disclosed and remitted to the successor.

If you should have any questions regarding this bulletin please contact the ~~Legal Division at (614) 752-8683.~~

← State Region at
(614)728-8549

SAMPLE LETTER OF REPRESENTATION

Dear Successor:

In accordance with the requirements of Section 117.17, Revised Code, I have prepared this Letter of Representation setting forth an inventory of all "properties, supplies, furniture, credits, and moneys, and any other thing belonging to the state" which it is my responsibility to turn over to you or to pay into the state treasury.

Attached is a listing of all such properties which are currently my responsibility as the (TITLE) of the (DEPARTMENT NAME) as of (DATE), my last day in office.

An originally executed copy of this letter, with the attachment, is being delivered to the governor, the auditor of state, and the attorney general. An additional copy is being retained for my personal records.

Please notify me if any discrepancies are noted in this inventory.

Sincerely,

(NAME)

Information about this letter, including a link for submitting it online, are at:
<http://www.ohioauditor.gov/resources/AOSNotificatons.html>