



Dave Yost • Auditor of State

Bulletin 2014-003

Auditor of State Bulletin

Date Issued: July 7, 2014

TO: All Public Offices and Independent Public Accountants

FROM: Dave Yost, Ohio Auditor of State

SUBJECT: Alcoholic Beverages Purchased for Resale at Public Events

SUMMARY:

This Bulletin clarifies the Auditor of State's policy regarding the use of public funds and alcoholic beverages. This Bulletin does not apply to county agricultural societies established and organized under R.C. Chapt. 1711.

The Auditor of State (AOS) will continue to issue findings to public entities when public funds are used to purchase alcoholic beverages; however, a limited exception to this policy will be recognized when alcoholic beverages are purchased only for resale, such as at a festival, community event, or similar activity, pursuant to a valid permit issued by the Division of Liquor Control.

DISCUSSION:

In AOS Bulletin 2003-005, it is explained that "the use of public funds to purchase alcoholic beverages will be considered arbitrary and incorrect and will be cited by the Auditor of State's Office." That bulletin was primarily concerned with using public money to purchase alcoholic beverages for consumption, such as by or for an employee, for example. Accordingly, the Auditor of State since 2003 has consistently applied the policy that the use of public funds for the purchase and individual consumption of alcoholic beverages is improper.

Questions have been raised, however, as to how the Auditor of State will treat the use of public funds to purchase alcoholic beverages solely for resale at public events, such as at a festival, community event, or similar activity, when such purchases are made in conformity with a permit issued to the political subdivision by the Division of Liquor Control, Ohio Department of Commerce.

Chapter 4303, Ohio Revised Code, establishes the Division of Liquor Control as the agency responsible for issuing or denying liquor permits in accordance with the requirements of statute. The Division of Liquor Control has issued some types of permits to political subdivisions that have applied for permits. Generally, these are permits which are available to non-profit entities, are valid for a temporary period of time, and authorize the purchase and re-sale of alcoholic beverages within the restrictions of the permit. Because the Division of Liquor Control is the State of Ohio's statutorily designated authority for the regulation of alcohol, due deference will be given to the decisions of the Division in issuing permits. The Auditor of State, therefore, will not issue findings to a political subdivision when the Division of Liquor Control has granted the political subdivision a valid permit to purchase and re-sell alcoholic beverages;

This exception to the Auditor of State's continuing policy, that the use of public funds to purchase alcoholic beverages is not a proper public purpose, will be applied only if the expenditure satisfies all of the following conditions:

- The political subdivision obtained a valid permit from the Ohio Division of Liquor Control;
- The political subdivision complied with the terms of the issued permit;
- The political subdivision purchased the alcoholic beverages solely for resale to the public, e.g. at special events;
- The expenditure is reasonable;
- The proceeds are applied as required by any applicable statute or other controlling law (i.e. municipal charter, municipal ordinance, township resolution, or county resolution).

The use of public funds to purchase alcoholic beverages in any other context will continue to be viewed as improper, arbitrary and incorrect and not for a proper public purpose. The public entity making such expenditures, unless otherwise authorized by statute, will be subject to appropriate audit findings.

If you have any questions regarding this matter, please contact the Legal Division of the Auditor of State



Dave Yost
Auditor of State