

## Chapter 7

### CHECKLISTS FOR OTHER LAWS AND REGULATIONS

Due to public policy considerations, the Auditor of State requires auditors to test certain laws and regulations for each audit even though they probably do not, in *most* circumstances, have a quantitative “direct and material” effect on determining financial statement amounts. This *Ohio Compliance Supplement* chapter provides a simplified process for assessing the government’s compliance with these requirements. Auditors can generally complete these tests using inquiry, observation and, occasionally, certain other limited substantive procedures, such as inspection of documents or limited vouching.

The 2006 Ohio Compliance Supplement now labels **some** requirements in Chapter 7 as those which auditors may “cycle.” That is, auditors can limit testing these items to every other audit, such as once every two years if we audit the government annually, or once every four years if we audit the government biennially. This **only** applies to steps Chapter 7 expressly labels as permitting testing every other audit.

Auditors should divide the steps subject to cycling approximately in half, and budget a similar amount for cyclic tests each audit to avoid audit cost fluctuations every other audit.

**The *Sample Questions and Procedures* this chapter presents are merely examples of procedures you might use.** You should add to, modify, or omit these procedures as appropriate in the circumstances. For example, if existing control tests or substantive compliance tests satisfy these objectives, the auditor should cross-reference this work to these sections.

If the auditor notes instances of noncompliance with these sections, and those instances are not material to the financial statements, report the non-compliance either in the management letter or, if clearly inconsequential as defined in *GAGAS*, they may be reported orally to management.

For example, suppose the compliance requirement is for payroll withholding, and the auditor has documented and tested payroll control procedures that already satisfy the compliance requirements. The documentation of such a process might look something like the following:

-- SAMPLE --

**Compliance Requirements:** Internal Revenue Code (IRC) Chapter 26 [26 USCA] - Collection of Income Tax at Source on Wages; 26 U.S.C. Sections 3401 through 3406, and related regulations; exceptions; notification of amount withheld; liability of employer; 26 U.S.C. Section 132; Portions of Internal Revenue Regulations (26 C.F.R.) Sections 1.61, 1.6041, and 1.6050E-1.

Ohio Rev. Code Section 5747.06 - Collection of Ohio income tax at source.  
Various local ordinances require withholding on wages earned in the particular municipality. These should be consulted for the exact requirements.

**Summary of Requirement:** These sections of the various tax codes require the employing government

to withhold federal, state, and local income and employment-related taxes (such as Medicare). They also require the government to report those tax matters to the appropriate tax authorities and to the recipients. Certain of these sections require consideration of whether employer provided “fringe” benefits, such as use of government automobiles for private purposes, constitute taxable income to be reported and withheld upon.

-- SAMPLE --

**Sample Questions and Procedures**

1. What policies and procedures do you have to ensure that the [Entity] is withholding federal, state, and local income taxes as required?
  
2. How do you ensure that the withholdings are being transmitted periodically to the appropriate jurisdictions as required? Please show me a sample of your tax filing reports.
  
3. Do you provide any of your employees with taxable fringe benefits, such as the use of a government owned vehicle, or an auto or uniform allowance? If so, how do you determine the amounts of the benefits to be reflected in the affected employees' Forms W-2? Please show me 1 or 2 employees' W-2s that reflect these amounts.
  
4. Did your government pay any independent contractor (other than a corporation) \$600 or more during this year? If so, please show me a few such Forms 1099 issued.
  
5. What procedures do you have to ensure that Forms 1099G are being issued for municipal income tax refunds exceeding \$10 each? Please show me a few such 1099s.

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We interviewed Molly McIntyre, treasurer, on July 17, 2006. We also performed tests of controls at various times. See the referenced working papers.	1. We have tested controls <sup>1</sup> on the payroll system. Our working papers reflect answers to questions 1 and 2. Our tests of controls and the results are found in the referenced working papers. 2. We tested controls over expenditures and contracts, noting no payments required to be reported on forms 1099 (question 4). 3. Based on our inquiry with the treasurer, the superintendent has an auto allowance; however, the treasurer was unaware that it is a taxable benefit (question 3). 4. This is a school district; therefore, question #5 is N/A.	100.15 (payroll)  103.03 (expenditures)

<sup>1</sup> Chapter 7 does not require testing controls. This example illustrates how auditors might sometimes use the results of other audit work to fulfill Chapter 7 requirements. In the example, the auditors tested controls to reduce audit risk related to payroll and nonpayroll expenditures, *not* solely to satisfy Chapter 7 requirements. However, they were able to use the control tests results to help satisfy this Chapter 7 requirement.

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

Our tests of controls indicated that the controls were operating effectively. Nothing came to our attention to indicate these requirements were not being met.

In the management report on compliance, we will report the failure to include the superintendent's auto allowance as a taxable fringe on his form W-2. There is no material effect on the f/s, therefore no further action is necessary.

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**Part 1: Contracting and Purchasing (General)**

**7-1 Compliance Requirement:** Ohio Rev. Code Sections 307.93(G), 341.25, 753.22, and 2301.57 - Establishment and accounting treatment for commissaries.

**Summary of Requirements:** Commissaries may be established by a sheriff of a county jail, the director of public safety or the joint board that administers a municipal or municipal-county workhouse, the director of a community-based or district community-based correctional facility, or the corrections commission of a multicounty, municipal-county, or multicounty-municipal correctional center. Once a commissary is established, all persons incarcerated must be given commissary privileges. In addition, the commissary fund rules and regulations for the operation of the commissary must be established by the person establishing the commissary for the correctional facility. The commissary fund must be managed in accordance with the procedures established by the Auditor of State’s Office, which are contained in **Auditor of State Bulletin 97-011**. The revenue generated in the commissary fund in excess of operating costs is considered profit. The profits must be expended for the purchase of supplies and equipment, life skills training, education and/or treatment services for the benefit of persons incarcerated in the correctional facility.

**Sample Questions and Procedures**

1. Please show me your commissary funds rules and regulations. Who established these rules and regulations?
2. Did you review AOSAB 97-011 to determine if your policies and procedures need updated?
3. Scan a list of expenditures from this fund. Determine that expenditures were for the benefit of those incarcerated (see list of acceptable expenditures above). Note: We do not require high levels of assurance from this procedure. Therefore, the sample sizes we require to obtain high assurance do not apply. Scanning alone should normally be sufficient, unless we have reason to suspect there are significant control or compliance issues.

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**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-2 All Local Governments Compliance Requirement :** Misc. local legislative body policies; charter requirements – Establishment of policies, restrictions on use, prohibitions for cell phones, government credit cards and purchasing cards, and government-owned vehicles and equipment (e.g., computers, internet and phone usage, etc.).

► *Also, see Step 7-4 regarding ORC requirements for county credit and purchasing cards.*

**Summary of Requirements:** Most governmental entities have the authority to provide cell phones, credit cards and purchasing cards for use by authorized employees and to provide government-owned vehicles and equipment (e.g., computers, internet and phone usage, etc.) for use by authorized users. For example, the ORC authorized counties, townships, park districts and agricultural societies to use credit cards.<sup>2</sup> The use of these items should be specified in a policy the government's legislative body adopts. These policies should, at a minimum, identify authorized users, guidelines for allowable use/purchases, method of reimbursement (if personal use is allowed), specific unallowable uses, reporting, monitoring of use by appropriate levels of management, and other guidelines the legislative body deems appropriate.<sup>3</sup>

Note: Effective Jan. 8, 2004, ORC 3375.392(A) permits a library's trustees to authorize its employees to use credit cards. This statute does not mandate controls over these cards. Nevertheless, auditors should consider and test credit card controls considering the materiality of credit card purchases.

#### Sample Questions and Procedures

**Steps 1 – 5 should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --5. We can apply steps 6 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient. Step 7 normally requires inquiry.**

1. Obtain copies of existing policies for cell phone, government credit cards and purchasing cards, and government-owned vehicles and equipment.
2. Who is responsible for monitoring the usage of these items?
3. If the policies were established by the legislative body, obtain a copy of the resolution or ordinance. Include a copy or abstract of the policy in the permanent file.
4. Review the established policies. Obtain and scan the list of authorized users.
5. Include copies of the applicable policies in the working papers (Permanent File).
6. Scan a few cell phone and credit card / purchasing card transactions to determine whether use was by an authorized user and within the guidelines established in the policy. In addition, include usage by the chief executive officer, chief financial officer, and elected officials in the review.
7. Inquire whether the entity's monitoring procedures identified any misuse. Determine whether the employee was notified of the improper use or was the matter otherwise appropriately corrected. (Note: The results from this inquiry may affect our assessment of the control environment.)
8. Any exceptions to the established policies should be communicated to management and to the

<sup>2</sup> If there is doubt about an entity's authorization to use credit cards, the government should consult with its legal counsel.

<sup>3</sup> Auditors and governments may wish to refer to the Auditor of State's *Best Practices* for discussions about and examples of cell phone policies (Spring, 2004); and procurement card and vehicle policies (Winter, 2004). You can read *Best Practices* at [www.auditor.state.oh.us](http://www.auditor.state.oh.us) under *Publications*.

legislative body. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the legislative body.		
<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>
<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b>		

**7-3 Compliance Requirement:** Misc. local legislative body policies; charter requirements; Ohio Ethics Commission Advisory Opinion No. 91-010; Ohio Rev. Code Sections 102.03(D) and (E), 2921.42(A)(4), and 2921.43(A) – Establishment of policies, allowable expenses, unallowable expenses, limitations on amount of reimbursement for travel reimbursement by employees; use of “frequent flyer” mileage earned on official travel for personal use.

**Summary of Requirements:** Governmental entities can adopt policies to allow employees and/ or officials to be reimbursed for travel related to official business, training, etc. The government should have a policy governing travel reimbursements established by the government’s legislative body. These policies should, at a minimum, identify the types of travel authorized; guidelines for allowable and unallowable expenses; limitations on amount of reimbursement; types of supporting documentation required for reimbursement requests; reporting; monitoring of use by appropriate levels of management; and other guidelines the legislative body deems appropriate.<sup>4</sup>

Ohio Ethics Commission Advisory Opinion No. 91-010 prohibits a state official or employee (Ohio Rev. Code Section 102.03(D) and (E)) and a state officer or employee (Ohio Rev. Code Sections 2921.42(A)(4) and 2921.43(A)) from accepting, soliciting, or using the authority or influence of her position to secure, for personal travel, a discounted or free “frequent flyer” airline ticket or other benefit from an airline if she has obtained the ticket or other benefit from the purchase of airline tickets, for use in official travel, by the department, division, agency, institution, or other entity with which she serves, or by which she is employed or connected.

#### Sample Questions and Procedures

**Steps 1 – 3 should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --3. We can apply steps 4 – 5 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient.**

1. Do you adhere to the Ethics Commission Advisory Opinion or do you have a formal policy governing the accumulation and use of “frequent flyer” miles earned on official travel by officials, officers or employees of your government? (For entities other than the state government and departments: in the absence of such a policy, we should recommend the government establish a policy that (1) prohibits the accumulation of “frequent flyer” miles by officials, officers or employees of the government earned on official travel which is paid for or reimbursed by the government; or (2) requires the officials, officers or employees of the government to use such miles earned for future official travel for that employee or another employee of the government, or to forfeit such miles. State government and departments should follow Ohio Ethics Commission Advisory Opinion No. 91-010.)
2. Obtain copies of existing policies for travel reimbursement. Who established these rules and regulations? Who is responsible for approving and monitoring reimbursement requests?
3. If the policies were established by the legislative body, obtain a copy of the resolution or ordinance. Review the established policies. Include copies of the applicable policies in the working papers (Permanent File).

<sup>4</sup> Auditors and governments may wish to refer to the Auditor of State’s *Best Practices* for discussions about and examples of travel policies (Spring, 2004). You can read *Best Practices* at [www.auditor.state.oh.us](http://www.auditor.state.oh.us) under *Publications*.

<p>4. Scan a few reimbursement requests, noting any unusual reimbursement requests. Consider focusing on key elected and appointed officials for this scanning. Determine the adequacy of supporting documentation and whether the travel is for a valid governmental purpose and was properly authorized.</p> <p>5. Any exceptions to the established policies should be communicated to management and to the legislative body. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the legislative body.</p>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

**County requirements  
Revised per SB 82,  
Effective Feb. 12, 2004**

**7-4 Compliance Requirement:** SB 82 amended 301.27 for county credit cards and created 301.29 for county procurement cards (“p-cards.”) These statutes require counties to establish policies and controls governing the use of county credit cards and p-cards.<sup>5</sup>

**Summary of Requirements:**

**301.27 (credit cards) requirements include the following:**

Note: RC 113.40(A)(1) defines credit cards as *financial transaction devices*, which RC 301.27 defines as including credit cards, charge cards, debit cards, or prepaid or stored value cards the commissioners do **not** deem to be procurement cards.

1. County employees, including commissioners and appointing authorities (i.e. other elected officials), can charge *only the following* work-related expenses to credit cards:

- Food
- Transportation
- Gas & oil (only for vehicles the county owns or leases)
- Telephone
- Lodging
- Internet service providers
- Expenses for children temporarily in the care of a public children services agency

2. Appointing authorities must receive the commissioners’ approval to have credit cards.

3. The county must charge credit card expenses to appropriations established for the costs described in (1.) above. That is, the county cannot appropriate money for “credit card expenses.”

4. Unless the commissioners resolve otherwise:

- Every card holder must submit a monthly estimate of credit card charges by appropriation code. (Note: commissioners may authorize periods exceeding one month for submitting estimates.)
- The commissioners may amend the estimates, and then must “pre-certify” them, by appropriation line item total, to the auditor, who then must certify that amounts are available and appropriated under 5705.41(D) to pay these costs.

The resolution can exempt all credit cards from requirement 4, or can exempt specified cards.

5. Regardless of whether the county estimates and “pre-certifies” expenses, credit card expenses cannot exceed appropriations.

6. Commissioners can approve payments exceeding authorized card policy limits after the fact.

7. If commissioners do not waive overexpenditure, the cardholder or office holder and surety are liable.

8. Institutions issuing cards can impose finance or late charges, but only if the commissioners authorize these charges.

**301.29 p-card requirements include the following:**

Note: ORC 301.29 defines procurement cards as any *financial transaction device* as defined in RC 301.28 including credit cards,<sup>6</sup> charge cards, debit cards, or prepaid or stored value cards the commissioners deem to be procurement cards. P-card requirements are similar to credit card

<sup>5</sup> Auditors and governments may wish to refer to the Auditor of State’s Winter, 2004 *Best Practices* for discussions about and examples of procurement cards. You can read *Best Practices* at [www.auditor.state.oh.us](http://www.auditor.state.oh.us) under *Publications*.

<sup>6</sup> Credit cards the commissioners deem to be “credit cards” follow the credit card provisions of RC 301.27. Credit cards the commissioners deem to be “p-cards” follow the procurement card provisions of RC 301.29.

requirements above, **except:**

1. The Commissioners must competitively bid with companies offering the card services.
2. Commissioners must approve, by resolution involving advice of the county auditor:
  - The expenditure classes (i.e. object codes) for which employees can use these cards. (P-cards are not limited to the expense types listed for credit cards in step 1 above.)
  - Limitations on the number of transactions chargeable each day, month or other period.
  - Procedures for revoking the card.
3. The county auditor shall **consult with the Auditor of State** in developing controls to implement p-cards. Note: The AOS reviewed and commented on a draft p-card policy the County Auditors Association of Ohio (CAAO) prepared. If counties adopt policies consistent with the CAAO policy, we can accept it without additional consultation. Note that our comments to CAAO included recommending that each county consult with its prosecutor to assure the policy includes any county-specific modifications to conform with applicable laws.

**Sample Questions and Procedures**

The steps below apply to both credit and p-cards, unless otherwise stated.

**Steps 1 – 7 should normally only apply when the entity adopts a new or modified policy. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 --7. We can apply steps 8 – 10 by scanning a limited number of transactions. We do not require a high level of assurance from these procedures. Scanning a small number of reimbursements for reasonableness and evidence of reviews and documented approvals should be sufficient.**

1. Obtain and review copies of existing policies for county credit cards and purchasing cards. Maintain in the permanent file.
2. If there is a new or modified p-card policy since the prior audit, compare it with the CCAO sample policy. (The policies need not be identical, but auditors should check for omissions of important elements the CCAO example includes.)
3. If there is a new or modified policy, determine if the prosecutor reviewed the policy and if the county included her or his advice in the policy.
4. If the county newly adopted p-card usage, read documentation supporting the county accepted the best bid from companies offering these services (Visa, etc.)
5. If the county established or amended the policies during the audit period, determine if the commissioners approved the changes via resolution where required as described in the requirements above.
6. Determine who is responsible for monitoring the usage of these items. Document how they review card users and charges.
7. Obtain and scan the list of authorized users. Determine how the county assures only authorized personnel use the cards.
8. Scan a few credit or p-card transactions and determine whether use was by an authorized user and within the guidelines established in the policy. Include usage by the chief executive officer, chief financial officer, and elected officials in the review.
9. If we note unauthorized use, did the entity’s monitoring procedures identify the misuse? Was the employee notified of the improper use or was the matter otherwise appropriately corrected?
10. Any exceptions to the established policies should be communicated to management and to the commissioners. If a policy does not exist or there are weaknesses in the policy, make appropriate recommendations to management and to the commissioners. Based on your assessment of the severity of deficiencies, assess the effect on our control risk assessment and opinion.

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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b>		

## Part 2: Accounting and Reporting

### Section A: General

**7-5 Compliance Requirement:** Ohio Rev. Code Section 117.38 - Filing financial reports (other than state agencies).<sup>7</sup>

**Summary of Requirement:** Cash-basis entities must file annual reports with the Auditor of State within 60 days of the fiscal year end. GAAP-basis entities must file annual reports within 150 days.<sup>8</sup> The Auditor of State may prescribe by rule or guidelines the forms for these reports. However, if the Auditor of State has not prescribed a reporting form, the public office shall submit its report on the form used by the public office. Any public office not filing the report by the required date shall pay a penalty of twenty-five dollars for each day the report remains unfiled, not to exceed seven hundred fifty dollars. The AOS may waive these penalties, upon the filing of the past due financial report.

The report shall contain the amount of: (A) receipts, and amounts due from each source; (B) expenditures for each purpose; (C) income of any public service industry that the entity owns or operates, as well as the costs of ownership or operation; and (D) **public debt** of each taxing district, the purpose of the debt, and how the debt will be repaid.

Also, the public office must publish notice in a local newspaper stating the financial report is available for public inspection at the office of the chief fiscal officer.

**Sample Questions and Procedures**

1. Trace selected totals from the annual report to the underlying accounting system. If we use the annual report as a trial balance, we will satisfy this requirement by completing the mandatory Trial Balance steps from the financial audit program. If the report is significantly deficient, we should cite ORC 117.38 for filing an incomplete or misleading report.
2. Search LGS's annual report file to determine whether the government filed an annual report with our office.

**You can limit the following step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

3. Please show me a proof of publication for the annual notice.

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**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<sup>7</sup> Failing to file an annual report *could* be a symptom of an inadequate accounting system, inadequate training of personnel in understanding the accounting and reporting process, unposted or unreconciled records or other **significant** issues affecting the control environment, or which may even pose fraud risks.

<sup>8</sup> The ORC does not prescribe a deadline for GAAP-mandated governments that file on another accounting basis (OCBOA or AOS basis). However, they still must file annually.

**7-6 Compliance Requirement:** Ohio Rev. Code Section 9.38 - Deposits of public money.

**Summary of Requirement:** Public money must be deposited with the treasurer of the public office *or* to a designated depository on the business day following the day of receipt. Public money collected for other public offices must be deposited by the first business day following the date of receipt.

For example, a government employee, other than the fiscal officer collecting funds and issuing a receipt, must deposit the funds with the government’s fiscal officer on the business day following the day of receipt. As an alternative to depositing the funds with the government’s fiscal officer, the employee instead may deposit funds with the government’s designated depository on the business day following the day of receipt.

If the amount of daily receipts does not exceed \$1,000 **and** the receipts can be safeguarded, public offices may adopt a policy permitting their officials who receive this money to hold it past the next business day, but the deposit must be made no later than 3 business days after receiving it. If the public office is governed by a legislative authority (counties, municipalities, townships, and school districts), only the legislative authority may adopt the policy. The policy must include provisions and procedures to safeguard the money during the intervening period. If the amount exceeds \$1,000 or a lesser amount cannot be safeguarded, the public official must then deposit the money on the first business day following the date of receipt.

**Note:** This section does not require the **fiscal officer** to deposit receipts with the designated depository on the business day following the day of receipt, or any other specified time. However, if the fiscal officer is holding significant amounts of cash and checks for an unreasonable period, you should make an internal control recommendation.

Auditors should be aware of this requirement, especially when testing governments with multiple cash collection points. Auditors should consider whether controls over cash collection points are adequate, including whether cash is timely deposited.

**Also:** Prisoners placing personal phone calls from the phones located in the county and city jails must place collect phone calls. To enable prisoners to place collect calls the County Sheriff and/or the City Police Chief may enter into agreements/contracts with long distance carriers. Often times to attract business, long distance carriers offer incentives such as refunds and/or rebates based on usage. Jail officials and employees must deposit rebates and refunds in accordance with 9.38.

**Sample Questions and Procedures**

**Note: To enhance efficiencies, we should integrate the tests below with the financial audit tests. We should only cite noncompliance if we determine significant amounts of cash are not deposited within the required time frames.**

1. Systems documentation should include collection points receiving significant amounts of cash.
2. When testing cash collections, document the date collected vs. the date deposited to the CFO or the date the “collector” deposited to a designated depository.
3. Read any new contract/agreement between the county sheriff/police chief and his/her long distance carrier. If incentives are granted, review the accounting treatment of the incentives. Determine if phone contract monetary refunds and or rebates were paid into the treasury in accordance with ORC 9.38. (We can limit step 3 to every other audit, unless we have reason to believe there may be issues with this.)

<b>Government Personnel Interviewed</b>	<b>Documents Examined or Observations</b>	<b>W/P</b>
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<b>and Dates:</b>	<b>Made to Corroborate Inquiry:</b>	<b>Ref.</b>
<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b>		

**7-7 Compliance Requirement:** Ohio Rev. Code Section 121.22 - Meeting of public bodies to be open, exceptions, and notice.

**Summary of Requirement:** All meetings of any public body (including community schools) are to be open to the public at all times. A member of a public body must be present in person at a meeting open to the public to be considered present or to vote and for determining whether a quorum is present. The minutes of a regular or special meeting of any such public body shall be promptly recorded and open to public inspection. The minutes need only reflect the general subject matter of discussions in executive sessions. [RC 121.22(C)]

Every public body shall, by rule, establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. A public body shall not hold a special meeting unless it gives at least twenty-four hours advance notice to the news media that have requested notification, except in the event of any emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested immediate notification. [RC 121.22(F)]

The members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold such a session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters [RC 121.22(G)]:

- (1) The appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or officials, or the investigation of charges or complaints against a public employee, official, licensee, or regulated individual, unless the public employee, official licensee, or regulated individual requests a public hearing;
- (2) The purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal private interest is adverse to the general public interest.
- (3) Conducting conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action.
- (4) Preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment.
- (5) Matters required to be kept confidential by federal laws or rules or state statutes.
- (6) Specialized details of security arrangements and emergency response protocols where disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office.

A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized above. [RC 121.22(H)]

**Sample Questions and Procedures**

**You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

1. How does your entity notify the general public and news media of when and where meetings are to be held?
2. Determine whether the minutes of public meetings are promptly recorded and available for public inspection.
3. Review the minutes and determine if executive sessions are only held at regular or special meetings.
4. Document that executive sessions are only held for the purposes outlined above.
5. Determine whether all formal governing board actions are adopted only in open meetings.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

**7-8 Compliance Requirement:** Ohio Rev. Code Section 149.43 - Availability of public records

**Summary of Requirement:** RC 149.011(G) defines a “record” for the public records law, as any document, device, or item, regardless of physical form or characteristic, created, received by, or coming under the jurisdiction of any public office which document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office.

RC 149.43(A)(1) defines “public record” as any record that is kept by any public office, including, but not limited to, state, county, city, village, township, and school district units (including community schools), except medical records, records pertaining to adoption, probation, and parole proceedings, trial preparation records, confidential law enforcement investigatory records, records pertaining to abortions by minors (RC 2151.85), “security”<sup>9</sup> or “infrastructure”<sup>10</sup> records defined under Section 149.433, Ohio Revised Code, adoption records (RC 3107.42(A)), and records the release of which is prohibited by state or federal law.

All public records shall be promptly prepared and made available to any member of the general public at all reasonable times during regular business hours for inspection. Upon request, a person responsible for public records shall make copies available at cost, within a reasonable period of time. In order to facilitate broader access to public records, public offices shall maintain public records in such a manner that they can be made available for inspection. [RC 149.43(B)(1)]

**Sample Questions and Procedures:**

**You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

Ascertain if responsible personnel are aware of the above requirements and have implemented local policies and procedures regarding:

1. What records are made available?
2. Times when records may be reviewed.
3. Costs for copies to be made.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<sup>9</sup> “Security” record is defined as any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference or sabotage; or any records assembled, prepared or maintained by a public office or public body to prevent, mitigate or respond to “acts of terrorism.” [RC 149.433]

<sup>10</sup> “Infrastructure” record is defined as any record that discloses the configuration of a public office’s critical systems (e.g., communication, computer, electrical, mechanical, ventilation, water, plumbing, etc.) of the building in which the public office is located. Simple floor plans are **not** included in this definition. [RC 149.433]

**Section B: Courts**

**7-9 Compliance Requirement:** Ohio Rev. Code Section 2335.25 - Cashbook of costs; clerk shall receive money payable at office; deposits.

**Summary of Requirement:** Each clerk of courts must maintain a journal or cashbook.

**Sample Questions and Procedures** (Questions should be posed to court personnel.)

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Are there any cash collections made by the court that are not entered into the journal or cashbook?
3. Describe procedures used to assure that the cashbook is complete and accurate (e.g., supervisory reviews, bank reconciliations). Note: We include this step here for emphasis, though it should be part of the financial audit tests and does not require additional testing for ORC purposes.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-10 Compliance Requirement:** Ohio Rev. Code Section 2303.12 - Books to be kept by clerk of the court of common pleas.

**Summary of Requirements:** The clerk of the court of common pleas shall keep at least the following books: They shall be called the appearance docket, trial docket and printed duplicates of the trial docket for the use of the court and the officers thereof, journal, and execution docket.

**Sample Questions and Procedures**

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Are there any cash collections made by the court that are not entered into the journal or cashbook?
3. Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews, bank reconciliations). Note: We include this step here for emphasis, though it should be part of the financial audit tests and does not require additional testing for ORC purposes.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<p><b>7-11 Compliance Requirement:</b> Ohio Rev. Code Section 2101.12 - Records to be kept by the probate court.</p> <p><b>Summary of Requirement:</b> Probate courts must maintain:</p> <ul style="list-style-type: none"> <li>• (A) Administration docket</li> <li>• (B) guardian docket</li> <li>• (C) civil docket</li> <li>• (D) minutes journal;</li> <li>• (E) Record of wills.<sup>11</sup></li> <li>• (G) execution dockets;</li> </ul>		
<p><b>Sample Questions and Procedures</b></p> <ol style="list-style-type: none"> <li>1. Are the aforementioned records maintained? (Note: We will normally know most of this from performing financially-related audit procedures.)</li> <li>2. Are there any cash collections made by the court that are not entered into a cashbook?</li> </ol>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

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<sup>11</sup> The record of wills may serve as a source of obtaining missing trust documents to support trust fund obligations for some of our governments. Page 22

**7-12 Compliance Requirement:** Ohio Rev. Code Section 2335.34 - Lists of unclaimed costs. Ohio Rev. Code Section 2335.35 - Disposition of unclaimed fees and costs.

**Summary of Requirements:** On the first Monday of January, the clerk of each

- common pleas court clerk
- court of appeals clerk
- probate judge clerk
- sheriff

shall make two certified lists of unclaimed fees and costs outstanding for one year, and post the list in her/his office and the courthouse for 30 days. [RC 2335.34]

After the aforementioned 30 day period, the clerk or sheriff must pay the money to the county treasury. Each such officer shall indicate in her/his cashbook and docket the disposition of each unclaimed item. [RC 2335.35]

**Sample Questions and Procedures**

**You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

1. Describe procedures used to assure the list is maintained completely and accurately (these objectives will usually be addressed by the procedures used to maintain other required court records).
2. Please show me how you reconcile the unclaimed amounts to balances held in the bank.
3. Please show me your most recent listing of unclaimed funds.
4. How much was paid to the county for unclaimed funds during the year under audit.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<p><b>7-13 Compliance Requirements:</b> Ohio Rev. Code Section 2151.18 - Records; annual report; distribution (<b>juvenile court</b>).</p> <p><b>Summary of Requirement:</b> Juvenile courts must maintain an appearance docket and a journal related to actions on cases before the court. (Note: This journal is not an accounting record.)</p> <p>An annual report must be prepared, showing the number and types of cases heard and their disposition. Copies of this report must be filed with the county commissioners. (Note: <u>Since this report is not a financial report, we do not require testing it.</u>)</p>		
<p><b>Sample Questions and Procedures</b></p> <ol style="list-style-type: none"> <li>Are the aforementioned records maintained?</li> <li>Are there any cash collections made by the court that are not entered into the journal or cashbook?</li> </ol>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

**7-14 Compliance Requirement:** Ohio Rev. Code Section 1907.20 - Records required of county courts.

**Summary of Requirement** County courts must maintain a general index and a docket.

On the first Monday of each January, the clerk must list all cases more than one year past for which money has been collected but unclaimed. The clerk must transmit notice of unclaimed funds to the party or to the party’s attorney. Money still unclaimed each April 1 must be paid to the county treasury. (Note: the funds remain the property of the potential claimant per RC 1907.20(D))

**Sample Questions and Procedures**

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)

**You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

2. Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
3. How do you identify amounts unclaimed for more than one year?
4. Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
5. How much was paid to the county for unclaimed funds during April of the year under audit?

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-15 Compliance Requirement:** 1901.31---.Ohio Rev. Code- Municipal court records.

**Summary of Requirement:** Municipal court clerks must maintain a general index and a docket and a listing of all cash receipts and disbursements. [RC 1901.31(E)].

On the first Monday of each January, the clerk must list all cases more than one year past for which money has been collected but unclaimed. The clerk must transmit notice of unclaimed funds to the party or to the party’s attorney. Money still unclaimed each April 1 must be paid to the municipal treasury (or county treasury, if it is a county-operated municipal court). [RC 1901.31(G)]

(Note: the funds remain the property of the potential claimant. That is, the government is holding this cash similar to an agent on behalf of the claimant.)

**Sample Questions and Procedures**

- Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)

**You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

- Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
- How do you identify amounts unclaimed for more than one year?
- Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
- How much was paid to the county for unclaimed funds in April following the year under audit?

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-16 Compliance Requirement:** Ohio Rev. Code Section 1905.21 - Docket; disposition of receipts. Ohio Rev. Code Section 733.40 - Disposition of fines and other moneys for mayor's court.

**Summary of Requirements:** The mayor of a municipal corporation and a mayor's court magistrate shall keep a docket. The mayor or mayor's court magistrate shall account for and dispose of all such fines, forfeitures, fees, and costs collected. [RC 1905.21]

All moneys collected shall be paid by the mayor into the municipality on the first Monday of each month. At the first regular meeting of the legislative authority each month, the mayor shall submit a full statement of all money received, from whom and for what purposes received, and when paid into the treasury. [RC 733.40]

**Sample Questions and Procedures**

**The financial audit procedures would normally include these steps. It is sufficient to cross reference results from financial audit procedures satisfying these requirements to this step without the need for any other procedures.**

1. Do you maintain a docket?
2. How do you assure that the docket is maintained completely and accurately?
3. Do you submit the required statement each month? Please show me \_\_\_\_\_ (pick a few monthly statements and have personnel walk you through them).
4. Describe procedures used to assure that the statement is complete and accurate.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-17 Compliance Requirements:** The following is a list of courts and of the related statutory provisions (all references are to the Ohio Rev. Code) for the collection, custody, and disbursement of fees, fines, costs, and deposits.

***Municipal Court***

1901.14	Powers of judge; fees; rules; annual reports
1901.26	Costs for operation of the court and special projects
1901.261	Additional fees for computerization of court or office of clerk of court*
1901.262	Fee for dispute resolution
1901.31	Clerk of Court, powers and duties
2951.021	Supervision fees (Probation)
4511.193	Fee for indigent alcohol treatment fund

***Mayor's Court***

733.40	Disposition of fines and other moneys
1907.261	Fees for computerization of clerk of court office * (applies per 1905.02)
4511.193	Fee for indigent alcohol treatment fund
<del>4507.021</del>	<del>Points system for license suspension</del> Repealed effective 1/1/04

***County Court***

1907.20	Clerk of county court, powers and duties
1907.24	Schedule of fees and costs and disposition
1907.26	Disposition of fees and costs
1907.261	Additional fees for computerization of court or office of clerk of court*
1907.262	Fee for dispute resolution
4511.193	Fee for indigent alcohol treatment fund

***Probate Court***

325.28	Receipt for fees
2101.12	Records to be kept; indexes
2101.15	Probate judge to file itemized account of fees to county auditor
2101.16	Fees and costs generally
2101.162	Additional fees for computerization of court or office of clerk of court*
2101.163	Fee for dispute resolution
2101.17	Fees from county treasury
2101.20	Reduction of fees (if collected fees exceed court salary costs)
2333.26	Fees of probate court
3113.34	Additional fee for marriage license; fee for domestic violence shelter
3705.21	Registration of marriages, divorces, dissolutions, annulments
5310.05	Assurance fund rate
5310.06	Monthly payments of money to treasurer of state, investment of funds
5310.15	Miscellaneous Fees

**Compliance Requirements (continued):*****Juvenile Court***

325.28	Receipt for fees
2151.54	Fees and costs generally
2151.541	Additional fees for computerization of court or office of clerk of court*
<del>2151.542</del>	<del>Fee for dispute resolution</del> Repealed effective 7/6/01
4511.193	Fee for indigent alcohol treatment fund

***Court of Common Pleas***

325.28	Receipt for fees
2301.031	Fee for computerization of domestic relations division
2303.20	Fees and costs generally
2303.201	Fees for computerization of clerk of court office and disposition*
<del>2303.202</del>	<del>Fee for dispute resolution</del> Repealed effective 7/6/01
2303.22	Costs and fees taxed upon writs
2335.35	Disposition of unclaimed fees and costs
2335.37	Payment of certain costs to county treasury
2335.241	Interest on certificates of judgment; computerization of court/ clerk's office (note, RC 2335.241 is not subject to the computerization fee restrictions of Bulletin 2005-003 discussed on the following page.)
3109.14	Fees for birth and death records and disposition of divorce or dissolution filings; Children's trust fund
2951.021	Supervision Fees (Probation)
4505.14	Fees for lists of title information
4519.59	Fees for certificate of title
4519.63	Preparation and furnishment of title information; Fees
4519.69	Fee for processing physical inspection certificate
5310.05	Assurance fund rate
5310.06	Monthly payments of money to treasurer of state, investment of funds
5310.15	Miscellaneous Fees

***Court of Appeals***

2501.16	Clerk of Court, powers and duties; fees for special projects
2303.20	Fees & Costs Generally (applies via 2501.16 & 2303.03)

***All Courts***

2335.30	Posting table of fees
2743.70	Fine to fund reparations payments (collection and remittance to state)
2949.091	Execution of sentence (collection and remittance to state)
4511.19(G)(5)(a)	Fine for enforcement and education fund
4513.263	Occupant restraining devices
5503.04	Disposition of fines and moneys arising from bail forfeitures

**Compliance Requirements (continued):**

The clerks of various courts receive cash in payment of various court fees, costs, and fines, as well as contingent deposits pending the outcome of legal proceedings. Such monies normally may be deposited in banks or savings and loan associations pending distribution in accordance with statutory specifications or as directed by the court.

All moneys collected during a month and owed to the state shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of the state [Ohio Rev. Code Sections 1907.24(C), 2303.201(C), 2743.70 (A), 2949.091(A) (all courts) & (B), and 3109.14].

\* Per Auditor of State Bulletin 2005-003, it is the AOS's opinion that a government cannot use these fees to compensate court employees who use a computer in their ordinary duties. Rather, the AOS believes the Ohio Legislature intended that such fees are to be used to procure and maintain computer systems or to computerize courts. This would include procuring services for installing, updating, and maintaining court computer systems (e.g., computer programmers or computer engineers). These services may be provided by employees or staff of the court and, in these circumstances, fees could be expended for employee or staff expenses as properly documented to demonstrate the percentage of time spent on such activities. However, employees and staff should not be compensated from computerization fees when using the court's computer systems as end-users.

**Sample Questions and Procedures**

Note: The ORC sections listed in this step are provided primarily for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should be part of the financial audit of the court.

1. Inquire as to how the court spends computerization fees. Determine whether the accounting system can segregate computerization fees received and spent; or how the court otherwise determines that these fees were only spent on permissible computerization activities per AOS Bulletin 2005-003.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-18 Compliance Requirement** - Ohio Rev. Code Sections 2743.70 and 2949.091 - Additional costs in criminal cases in all courts to fund reparations payments; additional court costs for state general revenue fund.

**Summary of Requirements:** These sections generally require the court in which any person is convicted of or pleads guilty to any offense other than a traffic offense which is not a moving violation to impose and collect additional fines to be used for the state's reparations fund. The court may not waive the payment of this additional cost unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

**Sample Questions and Procedures**

Note: The ORC sections listed in this step are provided primarily for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should be part of the financial audit of the court.

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-19 Compliance Requirement:**

Ohio Rev. Code Section 3375.53 - Fines and penalties for violation of liquor control laws and state traffic laws paid to **law libraries** (various courts).

Ohio Rev. Code Section 3375.52 - Court of **common pleas** and **probate court** to pay fines and penalties to law library.

Ohio Rev. Code Section 3375.50 - Allowance to law libraries from fines and penalties of **municipal courts**.

**Summary of Requirement:** These sections provide for distributing certain fines and penalties to the board of trustees of the county law library association.

**Sample Questions and Procedures**

Note: The ORC sections listed in this step are provided for your reference. When testing the collection and distributions of fines, auditors must refer to the applicable statutes governing the amounts to collect and amounts and methods of distribution, regardless of whether listed here. These tests should also be part of the *financial* audit of courts.

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-20 Compliance Requirement:** Ohio Rev. Code Sections 2113.64 and 2113.65 - Unclaimed estate money (**probate court**).

**Summary of Requirement:** These sections provide procedures regarding unclaimed estate money. The probate court may direct the county treasury or may order the will’s executor or administrator to invest the money for a period not to exceed two years. If the amount remains unclaimed after the designated period, it is paid into the county general fund.

**Sample Questions and Procedures**

**You can limit the following steps to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

- How do you identify amounts unclaimed?
- Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**Section C: Libraries**

**7-21 Compliance Requirement:** Ohio Rev. Code Section 3375.36 - monthly statement; financial statement; depository.

**Summary of Requirement:** The clerk is required to report monthly to the board. The reports are to reflect:

- revenues and receipts
- the disbursements and their purposes, and
- the assets and liabilities of the board [however, we do not interpret this section to require GAAP accounting].

At the end of fiscal year, the clerk is to submit to the board a complete financial statement showing the receipts and expenditures in detail for the entire fiscal year.

All moneys received by the clerk for library purposes are to be immediately placed in the designated depository.

**Sample Questions and Procedures**

1. Please show me a copy of one of your monthly reports to the board. Show me how you assure it agrees to the accounting system. (For example, if the accounting system prints these reports online [such as UAN\*], we should normally have high assurance of agreement without needing additional tests. Conversely, if the clerk must manually compile a monthly report from a manual accounting system, the risk of error would be greater.)
2. Please show me your most recent annual financial report. Show me how you assure it agrees to the accounting system. (For example, if the accounting system prints these reports online [such as UAN\*], we should normally have high assurance of agreement without needing additional tests. Conversely, if the clerk must manually compile a monthly report from a manual accounting system, the risk of error would be greater.)

\* If the library uses UAN, and the clerk uses UAN-generated reports to fulfill these requirements, there is no need to test these reports. Just document below that the clerk uses UAN reports to meet these requirements.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**Section D: Counties and County Hospitals**

**7-22 Compliance Requirements:** Ohio Rev. Code Section 319.04 - Mandates training and continuing education requirements for **county** auditors.

**Summary of Requirements:** An elected county auditor needs to complete at least 16 hours of continuing education courses during the first year of each full term, and to complete at least eight more hours by the end of that term. The county auditor needs at least two hours of ethics and substance abuse training in the total 24 hours of required courses. The County Auditors Association of Ohio (the Association) must approve each course. If a county auditor teaches an approved course, the county auditor may receive credit for it. The Association shall keep track of the hours completed by each county auditor and, upon request will issue a statement of the number of hours of continuing education the county auditor has successfully completed. The Association will send this information to the Auditor of State’s office and to the Tax Commissioner each year. If a county auditor does not adhere to the requirements stated above, the Association shall issue a “notice of failure” to that county auditor. This notice is for informational purposes only and does not affect any individual’s ability to hold the office of county auditor. Also, each board of county commissioners shall approve reasonable amounts required by the county auditor to cover the costs incurred when meeting the above requirements.

**Sample Questions and Procedures**

1. Please show me the County Auditor Association’s statement documenting your attendance.
2. Determine if the Auditor obtained sufficient CPE.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-23 Compliance Requirement:** Ohio Rev. Code Section 319.11- County financial reports.

**Summary of Requirements:** Ohio Rev. Code Section 319.11 addresses county financial reports. This section states in part that the county auditor upon completing the annual financial report shall publish notice that the report has been completed and is available for public inspection at the office of the county auditor. This notice shall be published once in two newspapers of general circulation published in the county; except that if only one newspaper is published in the county, then publication in only one newspaper is required. If there are no newspapers in the county, then publication should be done in the largest circulating newspaper of an adjoining county.

**Sample Questions and Procedures**

**You can limit this step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

Please show me proof of publication notice stating the report is available for public inspection.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**Section E: Townships**

**7-24 Compliance Requirement:** Ohio Rev. Code Section 517.15 – Creates the permanent cemetery endowment fund.<sup>12</sup>

**Summary of Requirements:** Previously, this fund accounted for gifts and bequests a township invested, with the interest used to maintain the donor-designated burial lots.

Since HB 513 passed in 2002, townships may receipt money from various sources into this fund, which becomes part of the nonexpendable fund principle.<sup>13</sup>

The sources of money a township can add to the nonexpendable endowment include gifts, charges added to the price regularly charged for burial lots, contributions and individual gifts and agreements with the purchase of a burial lot.

Townships can expend *endowment earnings* to maintain, improve and beautify specific burial lots and for general purpose maintenance, improvement and beautification of the cemeteries.

**Sample Questions and Procedures**

1. What are the sources of the moneys receipted into the fund? Please show me support for these sources. (Scanning the support should normally be sufficient.)
2. For what purposes were the moneys in this fund used? Please show me support for these expenditures. (Scanning the support should normally be sufficient.)
3. Compare disbursements to investment earnings. Disbursements in excess of unspent accumulated investment earnings violate RC 517.15, as the Bill Analysis in the footnote below describes.)

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<sup>12</sup> ORC terminology does not affect fund classification for financial reporting. Financial statement preparers should classify this fund according to GASB Cod. 1300. This fund might be a permanent or private-purpose trust fund.

<sup>13</sup> According to the Bill Analysis of Amended Substitute House Bill Number 513, 124<sup>th</sup> General Assembly, these financial sources become part of the endowment fund, along with any gifts, devises, or bequests for the maintenance, improvement, or beautification of the cemetery generally, or of a designated burial lot. (Sec. 517.15.)

## Part 3: Payroll, Taxes

### Section A: Federal, State, and Local Taxes

#### 7-25 Compliance Requirements:

- Internal Revenue Code (IRC) Chapter 26 [26 U.S.C.] - Collection of Income Tax at Source on Wages; 26 U.S.C. §3401 through §3406:
  - §3401: Definitions;
  - §3402: Withholding of income tax from wages;
  - §3403: Employers liable for payment of the tax deducted and withheld;
  - §3404: Return of amount deducted and withheld shall be made by appropriate officer of the governmental employer;
  - §3405: Withholding on pensions and annuities;
  - §3406: Backup withholding
- 26 U.S.C. §3102(a): Deduction of [Medicare] tax from wages;
- 26 U.S.C. §132: Exclusion of certain fringe benefits from gross income;
- Internal Revenue Regulations (26 C.F.R.):
  - §1.61-21: Taxation of fringe benefits;
  - §1.6041-1: Reporting of income aggregating \$600 or more [i.e., 1099s-MISC] <sup>14</sup>;
  - §1.6041-2: Reporting of *wage* income aggregating \$600 or more [i.e., W-2s];
  - §1.6041-3: Various exclusions;
  - §1.6041-6: Time and place for filing forms 1099 and 1096;
  - §1.6050E-1: Income tax refund reporting.
- Ohio Rev. Code §5747.06 - Collection of Ohio income tax at source.
- Various local ordinances require withholding on wages earned in the particular municipality. These should be consulted for the requirements.

#### Summary of Requirement:

These sections of the various tax codes require the employing government to withhold federal, state, and local income and employment-related taxes (such as Medicare). They also require the government to report those tax matters to the appropriate tax authorities and to the recipients. Certain of these sections require consideration of whether employer-provided “fringe” benefits, such as use of government automobiles for private purposes, constitute taxable income to be reported and withheld upon.

Note: See the *Ohio Compliance Supplement Introduction* regarding IRS Referrals.

<sup>14</sup> All payments to attorneys of \$600 or more that are not otherwise reported (e.g., on form W-2 for attorneys who are employees) must be reported on form 1099-MISC.

**Sample Questions and Procedures**

Note: It is normally efficient to integrate step 1 with payroll testing.

1. When testing payroll, determine if the government withholds state, federal and local income taxes.
2. Do you provide any of your employees with potentially taxable fringe benefits, such as the use of a government owned vehicle, or an auto or uniform allowance? If so, how do you compute the benefit amounts reflected in the affected employees' Forms W-2? Please show me 1 or 2 employees' W-2s that include these amounts.
3. Did your government pay any independent contractor (other than a corporation) \$600 or more during this year? If so, please show me a few Forms 1099 that were issued.
4. If the government assesses an income tax, scan a few Forms 1099G for municipal income tax refunds exceeding \$10 each.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**Section B: Employees' Retirement Systems and Fringe Benefits**

**7-26 Compliance Requirement:**

Revised per HB 364 Effective 4/8/03
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- Ohio Rev. Code Sections 145.01, 145.02, 145.03, 145.47, and 145.48 - **Public Employees Retirement System (PERS)**, definitions, exclusions, exemptions and rates of contributions.
- Ohio Rev. Code Sections 742.01, 742.02, 742.31, to 742.34 - **Police and Fire Disability and Pension Fund**, definitions, rates of contributions and reporting requirements.
- Ohio Rev. Code Sections 3307.01, 3307.012, 3307.381, 3307.51, 3307.53, and 3307.56 - **State Teachers Retirement System (STRS)**, definitions, employment of retired members, contribution rates. (These sections also apply to community school employees.)
- Ohio Rev. Code Sections 3309.23, 3309.341, 3309.47, 3309.49 and 3309.51<sup>15</sup> - Membership in **Public School Employees Retirement System (SERS)**, employment of retired members, contribution rate, payment of expense fund. (These sections also apply to community school employees.)

**Summary of Requirement:** These sections require governments to enroll most of their employees in the appropriate retirement system, and to withhold from the employees' wages, or pay on behalf of the employees, a certain percentage of earned wages as defined and to pay over to the appropriate system the amounts withheld, matched with an appropriate percentage of employer matching contributions.

**Sample Questions and Procedures**

1. When testing payroll transactions, determine if the government withheld pension amounts at the proper rate.
2. Scan payroll ledgers. List a few employees for which no pension is withheld. Ask the CFO to provide documentation or explanation as to why there is no withholdings for these employees.
3. Examine selected payments of the w/h from the government to the pension system. (This is an important step. Governments in financial distress occasionally resort to not paying withholdings when due. While unusual, this circumstance often **would be material noncompliance.**)

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<sup>15</sup> Effective 4/8/03, the Secretary of SERS will certify to ODE amounts ODE is to withhold from community school foundation payments for pension costs.

<p><b>Amended per HB 185, effective 8/31/04</b></p>
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**7 -27 Compliance Requirements:** Ohio Rev. Code Section 505.60 and 505.601 - Reimbursement of insurance premiums – **Townships.** <sup>16</sup>

**Summary of Requirements:** Townships may reimburse a township officer or employee for out-of-pocket premiums for insurance policies, including long-term care insurance. The reimbursement is permitted for a township officer or employee who is denied coverage under a township health care plan established pursuant to Ohio Rev. Code Section 505.60, **or** who elects not to participate in the township's plan. The reimbursement cannot exceed an amount equal to the average premium paid by the township under the policies it procures [Ohio Rev. Code Section 505.60(C)].

A township that does not procure health care benefits for its officers and employees is permitted to reimburse any township officer or employee for each out-of-pocket premium that the officer or employee incurs. However, pursuant to Ohio Rev. Code Section 505.601, the township must meet the following three conditions:

1. The board of township trustees adopts a resolution stating that the township has chosen not to procure a health care plan and has chosen instead to reimburse its officers and employees for each out-of-pocket premium,
2. The resolution provides for a uniform maximum monthly or yearly payment amount for each officer and employee,
3. The resolution states the specific benefits, pursuant to Ohio Rev. Code Section 505.60(A), that will be reimbursed.

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<sup>16</sup> Note: The Internal Revenue Code [26 USC § 105 (b)] provides an exclusion from gross income of employees for “. . . amounts . . . paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213(d)) of the taxpayer, his spouse, and his dependents . . .”. Section 213 (d)(1)(D) provides that the term “medical care” includes amounts paid for insurance. Therefore, reimbursing township employees for their medical insurance generally should not result in a taxable event to those employees, if the township is reasonably assured that the reimbursements are not in excess of employees' expenditures for medical insurance as defined.

<p><b>Sample Questions and Procedures</b></p> <ol style="list-style-type: none"> <li>1. Did the township reimburse any officer or employees for insurance benefit premiums during the period?</li> <li>2. If so, please show me the resolution authorizing reimbursement. (We should maintain a copy in the permanent file so we needn't repeat this step each audit.)</li> <li>3. Describe your procedures for ensuring reimbursements meet the requirements of [Section 505.60(C) or the reimbursement resolution].</li> <li>4. Please show me a few employees' reimbursement transactions.</li> </ol>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

**7 -28 Compliance Requirements:** Ohio Rev. Code § 505.603 - “Cafeteria Plans” - Townships.<sup>17</sup>

**Summary of Requirements:** In addition to or in lieu of providing benefits to township officers and employees under section 505.60, 505.601, or 505.602 of the Revised Code, a board of township trustees may offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the "Internal Revenue Code." To offer benefits through a cafeteria plan, the township must adopt a policy authorizing an officer or employee to receive a cash payment in lieu of a benefit otherwise offered to township officers or employee. This cash payment may not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the officer or employee.

Ohio Rev. Code § 505.603 further requires that no cash payment in lieu of a benefit be made unless the officer or employee provides a signed statement with the following information:

- an affirmation that the individual is covered under another plan for that type of coverage
- the name of the employer (if any) that sponsors the coverage
- the name of the carrier that provides the coverage
- the policy or plan number for the coverage

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<sup>17</sup> Note: The Internal Revenue Code [26 USC § 105 (b)] excludes from gross income of employees “ . . . amounts . . . paid, directly or indirectly, to the taxpayer to reimburse the taxpayer for expenses incurred by him for the medical care (as defined in section 213(d)) of the taxpayer, his spouse, and his dependents . . . ” Section 213 (d)(1)(D) provides that the term “medical care” includes amounts paid for insurance. Therefore, reimbursing township employees for their *medical* insurance generally should not result in a taxable event to those employees, if the township is reasonably assured that the reimbursements are not in excess of employees’ expenditures for medical insurance as defined. If the township is not reasonably assured of that, then the cash paid should be reflected on the employee’s or officer’s Form W-2 as an additional taxable benefit. Similarly, if the cash is used for life insurance or any other purpose, the employee’s W-2 should reflect an additional taxable benefit.

**Sample Questions and Procedures**

**Note: Steps 1 – 4 only apply when a township adopts or amends a cafeteria plan. Otherwise, reviewing the permanent file should address these steps and we need not fully perform steps 1 – 3 every audit.**

1. Do you offer your officers and employees benefits through a cafeteria plan?
2. Inquire if the township worked with their legal counsel and/or accountants to design and administer the plans properly. If so, secure any documentation legal counsel or the accountants have supplied to the township.
3. Did the IRS approve your plan? Please show me a copy of the approval letter.
4. Review the policy document for conformance with the requirements.
5. Describe your procedures for ensuring reimbursements met the requirements of Section 505.603.
6. Please show me [number] of signed statements with the attestations and the required information.
7. Calculate or review entity's calculations that cash in lieu of payments does not exceed 25% of the cost to the township for providing the benefit (that is no longer being received).
8. Determine if the employees' W-2 forms reflect additional income for the benefit if applicable.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**Section C. Vacation and Sick Leave**

**7-29 Compliance Requirements: Vacation and sick leave**

**Vacation leave:**

RC 325.19 and 3319.084 prescribe vacation benefits for **county** and **school non-teaching employees**, respectively. See tables below. The governing authorities of other local governments set vacation policy by statute, ordinance or charter. However, collective bargaining agreements supersede local states, ordinances or charters.

**RC 325.19 —County vacation leave**

<b>RC 325.19 Years of service</b>	<b>Vacation leave earned</b>
<1	0
≥1 but <8	80 hrs. per year
≥8 but <15	120
≥15 but <25	160
≥25	200

Note: Employees of county departments of jobs and family services accrue vacation pursuant to RC 124.13. However, this Section prescribes the same vacation accruals as does RC 325.19, above.

**RC 3319.084-- School nonteaching employee vacation leave**

<b>RC 3319.084 Years of service</b>	<b>Minimum vacation leave earned</b>
<1	0
≥1 but < 10	2 weeks
≥10 but < 20	3 weeks
≥20	4 weeks

**RC 9.44** generally requires an Ohio local government to include an employee’s prior service with the State or other Ohio local governments when computing vacation leave. However, there are exceptions to this general rule. While this would rarely, if ever, be significant, if this applies to an employee’s leave you are testing, see RC 9.44 regarding the exceptions.

**Sick leave:**

RC 124.38 prescribes 4.6 hours of sick leave for each 80 hours of completed service (120 hours / year), applicable to **county, municipal, civil service township service**, except to superintendent and management employees defined in RC 5126.20. RC 124.38 also applies to employees of any **state college or university**, and **certain board of education employees** (board of education employees for whom sick leave is not provided by Section 3319.141).

Ohio Rev. Code Section 3319.141- Sick leave for **school employees**: Earn 1¼ days per month (15 days / year), accumulating to a maximum of 120 days. However, a school board may adopt a policy permitting accumulations > 120 days.

Per RC 124.39, employees governed by RC 124.38 and employed for ≥ 10 years, are eligible for

payment of 25% of their unused sick leave balance, up to a maximum of 30 days, upon retirement.

**Note:** These sections provide for minimum vacation and sick leave. Governments generally may provide more than the minimum. These sections also prescribe procedures for paying the employees' accumulated leave balances upon separation from service.

**Sample Questions and Procedures**

**For GAAP entities, it is usually efficient to include these procedures when testing the financial statement liability for compensated absences.**

1. Obtain a copy of resolutions, ordinances or collective bargaining agreements setting vacation leave. Maintain an up to date copy in the permanent file.
2. What procedures do you follow for recording the accrual and use of sick leave and vacation? (If leave accrual is automated, using standing data, very limited recomputations of additions to the should suffice for testing credits to leave accrual.)
3. Please show me a few employees' calculations of leave balances credited and used, including appropriate leave forms. Determine whether the computations use the hours the ORC, local legislation or collective bargaining agreements authorize.
4. Did you have any employees leave service this year? Please show me, for a few of them, how you calculated and paid their accumulated leave balances. Determine whether the computations use the hours the ORC, local legislation or collective bargaining agreements authorize.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

## Section D. Compensation Related Requirements

### 7-30 Compliance Requirements: Ohio Rev. Code:

#### **Schools:**

Sections 3311.19 and 3313.12 - School board compensation and mileage

Section 3313.24 - Compensation of School Treasurer<sup>18</sup>

Section 3319.01 - Appointment and duties of superintendent (including compensation)

Section 3319.02 - Appointment of other (school) administrators, evaluation; renewal; vacation leave

Section 3319.08 - Teacher employment and reemployment contract

Section 3319.10 - Employment and status of substitute teachers

Section 3319.081 - Contracts for non-teaching employees

#### **Courts:**

Sections 141.04 and 141.05 - Compensation of judges ( court of common pleas, including probate court judges)

Section 2151.13 - Employees; compensation (courts).

Section 1907.16 and 1907.17 - Compensation of (county court) judges

Sections 2303.03, 2501.16, and 2501.17 - Officers and employees (courts of appeals)

Section 1907.20 - Clerks (court of common pleas)

Section 1901.11 - Compensation of judges (Municipal Court)

Sections 1901.31 and 1901.32 - Clerks; deputy clerks; bailiffs (Municipal court)

Section 141.04 (A) (3) - Compensation of judges (appellate court judges)

#### **Libraries:**

Section 3375.32 - Meeting of boards of library trustees; organization; election of clerk; bond.

Section 3375.36 - Treasurer of library (deputy clerk)

Section 3375.40 - Powers of boards of library trustees (compensation of employees)

#### **Municipalities**

Sections 731.07, 731.08, and 731.13 and 1973 Op. Atty Gen. No. 73-063 and 1983 Op. Atty Gen. No. 83-036 - Compensation (municipal officials)

#### **Counties:**

Chapter 325 - Compensation of county officials: auditor, 325.03; treasurer, 325.04; sheriff, 325.06; common pleas clerk, 328.08; recorder, 326.09; commissioners, 325.10; prosecutor, 325.11; engineer, 325.14; coroner, 325.15; vacation and holiday pay, 325.19; Op. Atty Gen No. 99-033 – in-term increase in compensation based on change in population according to decennial census (see Auditor of State Bulletin 99-015).

#### **Townships:**

Sections 505.24 (trustees), 505.60 (insurance - also see compliance requirement 7-26), 507.09 (clerk) - compensation for township officials, and 505.71 – compensation for joint ambulance district trustees. Also, 1999 Op. Atty Gen. No 99-015 – Definition of “budget” for purposes of compensation (see Auditor of State Bulletin 99-008).

#### **County Hospitals:**

Section 339.03 - Board of county hospital trustees; powers and duties

Section 339.06 - Compensation - county hospital administrator and employees

#### **Municipal Hospitals:**

Section 749.33 - Employment and compensation of superintendents, physicians, and employees (municipal hospitals)

<sup>18</sup> ODE has indicated that, under Ohio law, treasurers must account for/administer all school district. In addition, Ohio law states that a treasurer’s salary must be fixed and payable from the General Fund. Therefore, in the absence of an ODE-approved indirect cost allocation plan, it is not permissible to charge

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various State and/or Federal programs for supplemental compensation related to the Treasurer's *statutory* duties associated with these programs. Any such charges are unallowable under Ohio law and OMB Circular A-87. These charges may also qualify as *supplanting* under Federal guidelines if supplement not supplant provisions accompany the particular Federal award(s) being charged. However, if the treasurer can prove that he/she was assigned to non-treasurer duties and was compensated additionally for those, then we will not take exception to the compensation.

<p><b>Compliance Requirements (continued):</b></p> <p>Ohio State University [Section 3335.02(A)], Ohio University [Section 3337.01(A)], Miami University [Section 3339.01(A)], Bowling Green and Kent State Universities [Section 3341.02(E)], Central State University [Section 3343.05], Cleveland State University [Section 3344.01(A)], Medical College of Ohio at Toledo [Section 3350.01], Wright State University [Section 3352.01(A)], Youngstown State University [Section 3356.01], University of Akron [Section 3359.01(A)], University of Toledo [Section 3360.01(A)], University of Cincinnati [Section 3361.01(A)], Shawnee State University [Section 3362.01(A)], Community College Districts [Section 3354.06], Technical Colleges [Section 3357.06], State Community Colleges [Section 3358.03], University Branch Districts [none specified]. - Compensation of trustees.</p> <p><b>Summary of Requirement:</b> All of these various sections set out authority for appointing and/or compensating officials and employees of the various entities. For additional information and salary schedules for elected officials, see the <b>Elected Officials' Compensation Appendix</b> to the OCS.</p>		
<p><b>Sample Questions and Procedures</b></p> <p>Tests of payroll disbursement should normally address these requirements. You should include a few payments to elected officials in these tests. For those officials, agree their pay rate to OCS Compensation Appendix amounts.</p>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

## Part 4: Deposits and Investments

**7-31 Compliance Requirement:** Designating depositories --- Ohio Rev. Code:

*Subdivisions Other Than Counties*

Section 135.03 - Eligible depositories.

Sections 135.07 and 135.09 - Award of inactive and interim deposits, respectively.

Section 135.12 - Designation of depositories, requires a 5 year designation for subdivisions other than counties.

*Counties*

Section 135.32 - Eligible depositories.

Section 135.35 (D) - Eligible deposits or investments for county inactive moneys

Section 135.33 - Requires commissioners to designate depositories for a four-year period.

*Courts*

Section 131.11 - Security for funds deposited by certain public officials. Essentially requires courts to follow 135.18 or 135.181 collateral requirements.

*Libraries*

Section 3375.36 - Treasurer of library funds; depository:

- The board must designate a depository.
- The clerk must report monthly and annual financial activity to the board.

**Summary of Requirements:** These sections require local governments to **designate** depositories.

However, as ADAM 2002-005 notes, these ORC sections do **not** require a subdivision (including counties) to complete a “memorandum of agreement for deposit of public funds.” Therefore, we should not issue a noncompliance finding if a government has not completed a memorandum.<sup>19</sup>

**Sample Questions and Procedures**

**Note: The following procedure only applies if the prior depository designation expired during the audit period.**

Show me the minutes, resolution or agreement whereby the governing body designated depositories for the period under audit.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<sup>19</sup> The “Bureau of Inspection and Supervision of Public Offices” (the former title of the AOS Audit Division) prescribed a form for the Memorandum, Form No. 353, published by the Dayton Legal Blank Company. Ohio law does **not** require using this form or any other form.

<p><b>Revision per HB 168</b> <b>Effective June 15, 2004</b></p>
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**7-32 Compliance Requirements:** Ohio Rev. Code Sections 135.14(B)(7), 135.142, 135.15, 135.22, 319.04, 321.46 and 733.27 - Education Requirements

**Summary of Requirements: Subdivision** treasurers must complete annual continuing education programs provided by the Treasurer of State. The Treasurer of State issues a certificate indicating that the treasurer has successfully completed the continuing education program. The continuing education requirement does not apply to a subdivision treasurer who annually provides a notice of exemption to the Auditor of State, certified by the Treasurer of State, that the treasurer is not subject to the continuing education requirements because the treasurer invests or deposits public funds in the following investments only:

- (1) Interim deposits pursuant to § 135.14 (B)(3);
- (2) STAR Ohio pursuant to § 135.14(B)(6);
- (3) No-load money market mutual funds pursuant to § 135.14 (B)(5)

Specific requirements apply to the officials listed below:

**County Treasurers**

Newly-elected treasurers must complete education programs (26 hours) given by the Auditor of State (13 hours) and the Treasurer of State (13 hours) between December 1 and the first Monday in September next following that person's election [RC 321.46].

After completing one year in office, a treasurer must take not fewer than ~~12~~ 24 hours of continuing education given by the Auditor of State and the Treasurer of State in each biennial cycle commencing the January 1 after the treasurer's first year in office. County treasurers may carry forward up to six hours received from the Auditor of State plus up to six hours received from the Treasurer of State in excess of 24 from the current to the next biennial cycle. [RC 321.46]

A treasurer who fails to complete the **initial** education programs required by §321.46 ~~without a valid health-related excuse or other special hardship~~ cannot invest and is *subject to removal from office*. Investment authority transfers immediately to the county investment advisory committee.

A treasurer who fails to complete the **continuing** education programs required by RC 321.46 ~~without a valid health-related excuse or other special hardship~~ is restricted to investing in STAR Ohio, no-load money market mutual funds pursuant to § 135.14 (B)(5), or in certificates of deposit, or savings or deposit accounts. A county treasurer who has failed to complete the continuing education programs and invests in other than these investments is subject to removal from office.

**Village clerks**

Must attend annual training programs for new village clerks *and* annual continuing education programs provided by the Auditor of State [RC 733.27]. (The Auditor of State interprets this section as requiring a newly-elected clerk to attend the new clerk's training offered by the Auditor of State between December 1 and the following February 15, and any other annual training offered by the Auditor of State. Continuing clerks must attend the annual update sessions only.)

**All Local Governments**

No investment shall be made in commercial paper or bankers acceptances unless the following have

<p>completed additional training for making those investments. The type and amount of additional training shall be approved by the Auditor of State:</p> <ul style="list-style-type: none"> <li>• School treasurer [135.142(B)]</li> <li>• County investing treasurer<sup>20</sup> [135.35(A)(8)]</li> <li>• For other local governments: Treasurer or governing board [135.14(B)(7)]</li> </ul>		
<p><b>Sample Questions and Procedures</b></p> <p>Please show me your certificates of completion.</p>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

<sup>20</sup> RC135.35(A)(8) applies to the *investing authority*. However, the treasurer is the investing authority, except in the rare circumstance county commissioners determine a treasurer is not complying with county policies, per RC 135.34.

## Part 5: Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics

Revised by HB 185,  
effective 8/31/04 and  
SB 2, effective 6/9/04

### 7-33 Compliance Requirements and Summaries Thereof:

Ohio Rev. Code Section **102.03** - Restrictions and prohibitions.

These sections restrict the conduct of public officials and employees with respect to their official positions. Per RC 3314.03(A)(11)(e), RC 102 applies to community schools, except:

1. A community school governing board member can be a community school employee.
  2. A community school governing board member can have an interest in a contract unless the contract s with a for-profit entity to operate or manage the school.
- Present and former public officials or employees are prohibited during their public employment or for twelve months thereafter from representing any person on any matter in which the public official or employee personally exercised administrative discretion as a public official or employee. (Also known as *the revolving door statute*.) [102.03(A)(1)]
  - Division (A) of RC 102.03 shall not be construed to prohibit performing ministerial functions, including, but not limited to, the filing or amending tax returns, applications for permits and licenses, incorporation papers, and other similar documents. [102.03(A)(7)]
  - Public officials and employees are prohibited from using or authorizing the use of the authority or influence of office or employment to secure anything of value or to promise or to offer anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties. [102.03(D)]
  - Public officials and employees are prohibited from soliciting or accepting anything of value that is of such character as to manifest a substantial and improper influence upon that public official or employee with respect to that person's duties. [102.3E)]

### RC sections governing interests in contracts by elected officials

- **RC 305.27** Prohibits county commissioners from having an interest in a county contract.
- **RC 511.13** Prohibits any member, officer or employee of a board of township trustees from having an interest in any contract the trustees approve.
- **RC 731.02** Prohibits members of a city legislative authority from having an interest in any contract with the city.
- **RC 731.12** Prohibits members of a village legislative authority from having an interest in any contract with the village.
- **RC 3313.33** Prohibits board of education members from having a pecuniary interest in a board contract, or from being employed by the board. However, there are exceptions, per RC 3313.33(C). You should refer to the statute for details of the exceptions.

Ohio Rev. Code Section **2921.42** - Having an unlawful interest in a public contract. This section prohibits such interests. (Note: While RC 3314.03(A)(11)(e) excludes community schools from complying with this, interest in contracts may be illegal for their board members per 102.03(D) or (E) as noted above.)

ORC 9.833(F) expressly permits a subdivision's officials or employees to serve on the governing board of the program administrator of a governmental self-insurance program, if his or her government participates in that program.

Ohio Rev. Code Section **2921.41**- Theft in office.

Public officials committing theft of public property (or services), or who use their offices in and of committing such acts, or permit their offices to be so used, are in violation of this Section. Section 2913.01(K) defines "theft."

Ohio Rev. Code Section **2921.421** - Assistants and employees of prosecutors, law directors, and solicitors.

This section provides procedures for employing persons associated in the private practice of law in these offices.

Ohio Rev. Code Section **3329.10** - Purchases of school textbooks and supplies:

Superintendents, principals, teachers, and supervisors are prohibited from acting as sales agents for textbook companies including companies offering electronic textbooks. These school officials are also prohibited from representing companies selling school apparatus or equipment. (Not applicable to community schools.)

Op. Atty Gen. No. 79-111 - Incompatibility of public offices: A public officer or employee may be pro

Note: You may find evidence of possible violations of Sections 102.03, 2921.41, 2921.42, and 2921.421 from various audit tests. These sections are criminal violations. Auditor of State staff should consult with the State Auditor's Legal Division whenever you suspect possible violations of these sections. Independent public accountants should consult with their own legal counsel.

### Sample Questions and Procedures

1. How does your [Entity] identify possible interests on the part of officials and employees in matters coming before them for official action? For example, does your [Entity] require officials and employees to report the outside businesses and organizations they work for to you?
2. Do you know if anyone has inquired with the Ohio Ethics Commission as to whether any complaints or inquiries have been received concerning public officials of the [entity].
3. Do you know if any such transactions occurred during this year?
4. Do you know of any other illegal acts or frauds? (SAS 99 requires this step. If you already documented this in the FRAQ, you need not repeat this step here.)
5. If the school district purchase textbooks (including electronic textbooks) or school apparatus or equipment during this year, how did you assure yourselves that no one on the purchasing committee (superintendents, principals, teachers, and supervisors) acted as sales agents for those companies?

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>
<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b>		

## Part 6: Prohibited Political Activity

### 7-34 Compliance Requirements and Summaries Thereof:

Ohio Rev. Code Section 9.03 - Political subdivision newsletters and other means of communication. No governing body of a political subdivision shall use public funds to publish, distribute, or communicate information that supports or opposes the nomination or election of a candidate for public office, the investigation, prosecution, or recall of a public official, or the passage of a levy or bond issue. In addition, no public funds shall be used to compensate any employee of the political subdivision for time spent on any activity to influence the outcome of an election for any of the purposes described above. However, public funds may be used to publish information about the political subdivision's finances, activities, and governmental actions in a manner that is not designed to influence the outcome of an election or the passage of a levy or bond issue. Public funds may also be used to compensate an employee for attending a public meeting to present such information in such a manner even though the election, levy, or bond issue is discussed or debated at the meeting.

However, this Section specifically exempts Alcohol Drug Addiction and Mental Health (ADAMH) Boards from the prohibition against using public funds to support a levy or a bond issue. ADAMH Boards are specifically authorized by Ohio Rev. Code Sections 340.03(A)(5) and 340.033(A)(12) to use their public funds to obtain further financial support for their activities.

Ohio Rev. Code Section 124.57 - Political activity prohibited.

This section imposes restrictions upon the political activity of employees in the classified service of the State, counties, cities, city school districts, and civil service townships.

Ohio Rev. Code Section 124.59 - Payment for appointment or promotion prohibited.

Applicants for appointment or promotion in the classified service shall not pay for appointments or promotions

Ohio Rev. Code Section 124.61 - Abuse of political influence.

Public officials (or potential public officials) shall not use or promise to use, any official authority or influence in order to secure or aid any person in securing any office or employment in the classified service, or any promotion or increase of salary therein, as a reward for political influence or service.

Ohio Rev. Code Section 3315.07 (C) - Support of school ballot issues.

No board of education shall use public funds to support or oppose the passage of a school levy or bond issue or to compensate any school district employee for time spent on any activity intended to influence the outcome of a school levy or bond issue election. However, the law specifically allows a school board to allow its employees to attend public meetings during working hours to give informational presentations regarding the district's finances and activities, even if the purpose of the meeting is to debate the passage of the school levy or bond issue.

**Sample Questions and Procedures**

**You can limit the following step to every other audit, unless the prior audit found noncompliance or unless you have other reasons to suspect this may be a compliance issue. The working papers should document whether we tested this in the prior audit.**

- Inquire if the CFO is aware of these requirements and what controls the entity has established to prevent violations. Controls should include:
  - Policies or published notifications to employees regarding these requirements.
  - A requirement for a person knowledgeable of these requirements to review and approve payment requests.
  
- Inquire if the CFO is aware of any possible violations. If so, or if other evidence comes to your attention suggesting violations may have occurred, investigate the allegations as needed.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

## Part7: Public Officials' Bonding Requirements

### 7-35 Compliance Requirement:

#### General

Ohio Rev. Code Section 3.06 - Unless other statutes prescribe a bond for a particular officials (such as for the officials listed in OCS Bonding Appendix), RC 3.06(B) permits “. . . any department or instrumentality of the state or any county, township, municipal corporation, or other subdivision or board of education or department or instrumentality thereof, may procure a blanket bond from any duly authorized corporate surety covering officers, clerks and employees, other than. . . treasurers or tax collectors and any officer, clerk or employee required by law to execute or file an individual official bond to qualify for office or employment.

RC 3.06 also requires “Any such blanket bond shall be approved as to its form and sufficiency of the surety by the officer or governing body authorized to require it.”

Ohio Rev. Code Section 3.30 - Failure to give bond deemed refusal of office.

A number of specific bonding requirements have been prescribed by statute for various public officers and employees. See [Ohio Compliance Supplement Bonding Appendix](#) for the requirements applicable to county, city, township, school, and library officials.

#### Universities

Ohio State University [Section 3335.05], Ohio University [none specified], Miami University [none specified], Bowling Green and Kent State Universities [Section 3341.03], Central State University [Section 3343.08], Cleveland State University [Section 3344.02], Medical College of Ohio at Toledo [Section 3350.02], Wright State University [Section 3352.02], Youngstown State University [Section 3356.02], University of Akron [Section 3359.02], University of Toledo [Section 3360.02], University of Cincinnati [Section 3361.02], Shawnee State University [Section 3362.02], Community College Districts [none specified], Technical Colleges [none specified], State Community Colleges [Section 3358.06], University Branch Districts [Section 3355.051].

These compliance requirements are specific in the Ohio Rev. Code for all state universities except Ohio and Miami Universities, and are also not specified for certain other types of institutions. If a deficiency is noted for these institutions, it should be treated as a potential management comment rather than a compliance finding.

#### Community Schools

Ohio Rev. Code Section 3314.011 - Every community school established under this chapter shall have a designated fiscal officer. The Auditor of State may require by rule (see OAC 117-6-07 below) that the fiscal officer of any community school, before entering upon duties as the fiscal officer of the school, execute a bond in an amount and with surety to be approved by the governing authority of the school, payable to the state, conditioned for the faithful performance of all the official duties required of the fiscal officer. Any such bond shall be deposited with the governing authority of the school, and a copy thereof, certified by the governing authority, shall be filed with the county auditor.

Ohio Admin. Code § 117-6-07 requires a community school fiscal officer to execute a bond prior to entering upon the duties of the fiscal officer as provided for in Ohio Rev. Code Section 3314.011. The governing authority prescribes the bond amount and surety by resolution.

<p><b>Summary of Requirement:</b> These sections provide requirements for bonding certain public officials and employees.</p>		
<p><b>Sample Questions and Procedures</b> [See the OCS <b>Bonding Appendix</b> for details of requirements].</p> <ol style="list-style-type: none"> <li>1. How do you determine who is required to be bonded?</li> <li>1. Do you have blanket bonds on officials or employees? How do you determine whether employees are eligible for such blanket bonding?</li> <li>2. If the amount of the bond is not specified by statute, inquire how the government determined whether amounts of the bonds are commensurate with the duties of their office, i.e., amount of funds for which the individual is responsible, limits of liability, etc. If the bond seems unreasonable, consider issuing a management comment.</li> <li>3. Please show me a few representative bonds.</li> <li>4. For colleges and universities, as indicated above, additionally: How do you assure yourself that the bonds have been approved by the board and by the Attorney General?</li> </ol>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

## Part 9: Other Special Entity Requirements

### Section A: County Requirements

**7-36 Compliance Requirements:** Ohio Rev. Code Sections 325.071, 325.12 and 325.13 - Furtherance of justice allowance to sheriffs and prosecuting attorneys.

**Summary of Requirement:** The Furtherance of Justice Funds, created in accordance with Ohio Rev. Code Sections 325.071, 325.12 and 325.13 exist in order to provide for the sheriff’s and the prosecuting attorney’s expenses relating to the performance of the officer’s official duties and in the furtherance of justice.

Although the officers possess considerable discretion in determining an expense in the performance of their duties, these expenditures must be for a proper public purpose. The sheriff and prosecutor must be allowed one-half of the officer’s official salary, with two exceptions according to Section 325.13. The first exception allows the county prosecutor to appeal to the common pleas court for up to \$10,000 if the amount available in the fund is not sufficient. The second exception allows moneys collected by a court for fines to be distributed to the fund by court order. The sheriff and the prosecutor must account for all of the expenditures that have been made from the Furtherance of Justice Fund and file the accounting with the county auditor by the first Monday in January. Any funds that remain at the end of the year including cash held by officers must be deposited to the county treasurer.

**Sample Questions and Procedures**

Auditors should refer to the **FOJ Appendix** of the Ohio Compliance Supplement. The appendix includes audit programs to be used when performing tests of these funds. The audit programs are to be used at least **once every three years** as discussed further in the appendix. For years in which use of the audit programs is not required, auditors should use the following sample questions and procedures:

1. Please show me any policies and procedures you have for administering this fund.
2. Did you file the required annual report of expenditures for this fund? Please show me a copy of it.
3. Please show me documentation that the expenditures from this fund were proper and in accordance with your policies and procedures. Auditors should scan expenditure documentation and determine whether appropriate documentation is being maintained (i.e. receipts, invoices, affidavits, etc.), and whether expenditures appear reasonable in nature (i.e. proper public purpose). If significant unusual items are noted, auditors should perform the disbursement testing procedures included in the audit programs in the **FOJ Appendix**.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**



**7-37 Compliance Requirement:** Ohio Rev. Code Section 325.07 - Sheriff's transportation of prisoners allowance.

**Summary of Requirement:** A monthly allowance is provided to the sheriff for expenses incurred in transporting or pursuing persons accused of crimes. The sheriff must file with the county commissioners an itemized monthly report of expenditures.

**Sample Questions and Procedures**

Auditors should refer to the **FOJ Appendix** of the Ohio Compliance Supplement. The appendix includes audit programs to be used when performing tests of this fund. The audit programs are to be used at least **once every three years** as discussed further in the appendix. For years in which use of the audit programs is not required, auditors should use the following sample questions and procedures:

1. Did you draw the advancement for pursuit and transportation of prisoners?
2. Please show me any policies and procedures you have for administering this fund.
3. Please show me a copy of the expenditure reports you filed for this fund. (The auditor should inspect this document for any apparent improprieties).
4. Please show me documentation that the expenditures from this fund were proper and in accordance with your policies and procedures. Auditors should scan expenditure documentation and determine whether appropriate documentation is being maintained (i.e. receipts, travel reports, etc.), and whether expenditures appear reasonable in nature (i.e. proper public purpose). If significant unusual items are noted, auditors should perform the disbursement testing procedures included in the audit programs in the **FOJ Appendix**.

**Government Personnel Interviewed and Dates:**

**Documents Examined or Observations Made to Corroborate Inquiry:**

**W/P Ref.**

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**7-38 Compliance Requirement and Summary:** Ohio Rev. Code Section 3119.27 & 3125.10 -

A court that issues or modifies a court support order, or an administrative agency that issues or modifies an administrative child support order, shall impose on the obligor under the support order a processing charge that is the greater of two per cent of the support payment to be collected under a support order or one dollar per month. No court or agency may call the charge a poundage fee. [RC 3119.27]

Each county shall have a child support enforcement agency. A government entity designated under former section 2301.35 of the Revised Code prior to October 1, 1997, or a private or government entity designated under RC 307.981 on or after that date may serve as a county's child support enforcement agency. [3125.10]

**Sample Questions and Procedures**

Note: While counties may report this activity in an agency fund, the amount of cash is normally significant and administering child support is an important county function. The financial audit program should include sufficient steps to reasonably assure the county is administering this important custodial function properly. Those financial audit objectives / tests must include:

- The child support agency sets up individual accounts for each case.
- The agency credits each account accurately for amounts received from each support case.
- The agency remits the amounts received to the proper child (after deducting the processing charge).
- The agency can reconcile cash on hand to balances held for each case.

## Section B: Municipality Requirements

### 7-39 Compliance Requirement: Ohio Rev. Code 5727

#### Summary: Kilowatt-hour tax (kWh tax)

Municipal (Government) electric systems must assess a monthly kilowatt-hour (kWh) tax on end users. This tax is assessed at a variable rate that decreases as kilowatt-hour usage increases on the meters of end users (the last meter used to measure the kWh distributed). [RC 5727.81(A)]

RC 5727.82(A)(3) permits municipal electric communities to retain in their general fund the taxes collected from customers served inside their city or village limits (including taxes self-assessing customers pay, per 5727.81(C)(2)).

*Note: This legislation did not change the constitutional rule\* that municipal electric systems can sell no more than one-third of electricity outside city or village limits.*

Municipal electric systems must file a monthly report and remit to the Tax Commissioner,<sup>21</sup> by the 20<sup>th</sup> of the next month, taxes collected from any distribution customers served outside their city or village limits. Even if a municipal electric system has no sales outside of its community limits, a monthly report must be filed. [RC 5727.82(A)(1) & (A)(3)]

A self-assessing option exists for a large users consuming more than 45 million kWh annually. This self-assessing customer must annually register with the Department of Taxation and pay an annual fee to the State. A self-assessing customer located inside a municipal electric community's limits must remit any kWh tax directly to the community. [RC 5727.81(C)(2)]

Every electric system liable for the kWh tax must keep complete and accurate records of all electric distributions and other records as required by the Tax Commissioner. The records must be preserved for four years after the return for the taxes for which the records pertain is due or filed, whichever is later, and be available for inspection. [5727.92]

Note: AOS Bulletin 2001-011 explains these requirements in more detail. Auditors should familiarize themselves with this Bulletin before testing this requirement.

\* Per Ohio Constitution, Article 18, Section 6: "Any municipality, owning or operating a public utility for the purpose of supplying the service or product thereof to the municipality or its inhabitants, may also sell and deliver to others any transportation service of such utility and the surplus product of any other utility in an amount not exceeding in either case fifty per cent of the total service or product supplied by such utility within the municipality, provided that such fifty per cent limitation shall not apply to the sale of water or sewage services." (Note: 50% of the total supplied within the municipality = 1/3 of the total supply.)

#### Sample Questions and Procedures

1. How do you segregate kWh taxes billed /collected for customers residing outside of the municipality's limits vs. those billed / collected inside the municipality's limits?

<sup>21</sup> Governments must pay the tax to the Tax Commissioner, unless required to remit the taxes via electronic funds transfer to the Treasurer of State per Section 5727.83 of the Ohio Revised Code.

<ol style="list-style-type: none"> <li>2. Please show me a few of your monthly tax filing reports to the State Treasurer. Please show me how these agree with your ledgers.</li> <li>3. Inquire with the municipality if there are any self-assessing customers to whom they supply electricity. If yes, inquire how the tax is transmitted to the general fund. (If the self assessor is located outside of the entity limits, the self assessor remits the kWh tax directly to the State.)</li> <li>4. Inquire how the auditee determines that no more than one-third of its total sales are outside its limits.</li> <li>5. Inquire about the municipality's procedures for complying with the record keeping requirements. Read a few electric distribution records to determine compliance.</li> <li>6. Inquire how the government computes / segregates the tax billed to its residents and transfers the amount to its general fund.</li> </ol>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

**Section C: School Requirements**

**7-40 Compliance Requirement and Summaries Thereof:**

**Licensing, school districts:**

- The state board of education requires treasurers to have licenses. [Section 3301.074(A)].
- Ohio Rev. Code Section 3301.074 - Licensing of business managers; Ohio Admin. Code Section 3301-6-01(C) – requires school district business managers to be licensed.
- The state board of education requires school district business managers to be licensed. [Section 3301.074(A)].

**Community school requirements:**

- Ohio Rev. Code Section 3314.011 – Prior to assuming the duties of fiscal officer, the fiscal officer must be licensed under Ohio Rev. Code Section 3301.074 or must complete not less than sixteen hours of continuing education classes, courses or workshops in school accounting as approved by the sponsor of the community school.

Any fiscal officer not licensed under Ohio Rev. Code Section 3314.074 must complete an additional twenty-four hours of continuing education classes, courses or workshops in school accounting as approved by the sponsor of the school within one year after assuming the duties of fiscal officer. Any hours in excess of sixteen hours completed by the fiscal officer prior to assuming their duties will count toward the additional twenty-four hours of continuing education required under this section.

In each subsequent year, any fiscal officer not licensed under Ohio Rev. Code Section 3314.074 must complete eight hours of continuing education classes, courses or workshops in school accounting as approved by the sponsor of the school.

- All community school classroom teachers are to be licensed in accordance with Ohio Revised Code Sections 3319.22 to 3319.31, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to Ohio Revised Code Section 3319.301. A permit must be issued by the Ohio Dept. of Education to these “noncertificated” persons in order to teach.

**Sample Questions and Procedures**

1. What procedures do you have to insure yourselves that these employees’ licenses are current?
1. Please show me a few licenses.

Government Personnel Interviewed and Dates:	Documents Examined or Observations Made to Corroborate Inquiry:	W/P Ref.

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable**



<p><b>7-41 Compliance Requirements:</b> Ohio Rev. Code Section 3313.291 - School District Petty Cash Accounts. (Not applicable to community schools.)</p> <p><b>Summary of Requirements:</b> This section <u>allows</u> a Board of Education to adopt a resolution establishing a petty cash account from which a designated district official may make disbursements by check or debit card for purchases made within the district.</p> <p>The resolution establishing the petty cash account MUST:</p> <ol style="list-style-type: none"> <li>1. specify the maximum amount of money placed in the account;</li> <li>2. designate the authorized district officials who may draw moneys from the account or require the school district treasurer to designate such officials; AND</li> <li>3. establish procedures for replenishing the account.</li> </ol>		
<p><b>In determining how the government ensures compliance, consider the following:</b></p>	<p><b>What control procedures address the compliance requirement?</b></p>	<p><b>W/P Ref.</b></p>
<ul style="list-style-type: none"> <li>• Policies and Procedures Manuals</li> <li>• Knowledge and Training of personnel</li> <li>• Tickler Files/Checklists</li> <li>• Legislative and Management Monitoring</li> <li>• Management’s identification of changes in laws and regulations</li> <li>• Management’s communication of changes in laws and regulations to employees</li> </ul>		
<p><b>Suggested Audit Procedures - Compliance (Substantive) Tests</b></p>		
<p><b>Steps 1 &amp; 2 should normally only apply when the district adopts new or modified policies. Otherwise, our review of systems documentation or the permanent file should fulfill the requirements of steps 1 -- 2. We can limit step 3 to every other audit unless we have noted issues with petty cash in the prior audit or unless we are aware of or suspect there may be issues with petty cash. The working papers should document whether we tested this in the current or prior audit.</b></p> <ol style="list-style-type: none"> <li>1. Include a copy of the board approved, petty cash account policy and a list of authorized district officials <u>in the permanent file</u>.</li> <li>2. If the district disburses significant amounts through the petty cash account, include this account when evaluating disbursement cycle controls. If amounts disbursed through petty cash are not significant, you can limit these procedures to every other audit.</li> <li>3. Select a representative number of petty cash disbursements and determine whether appropriate documentation exists to support petty cash disbursements.</li> </ol>		
<p><b>Audit implications (adequacy of the system and controls, and the direct and material effects of</b></p>		

**non-compliance, effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

**New Sections per HB 3  
effective January 1, 2004, and HB  
364, effective April 8, 2003**

**7-42 Compliance Requirement:** Ohio Rev. Code Sections 3314.03(A), 3314.082 Community School tax status

**Summary of Requirements:**

Ohio Rev. Code Section 3314.03(A)(1)(a): Community schools established prior to April 8, 2003 must be nonprofit corporations under ORC 1702.

Per 3314.03(A)(1)(b), community schools established after April 3, 2003 must incorporate as public benefit corporations.

Per RC **3314.082**, community schools cannot use foundation money to pay any taxes the school might owe on its own behalf, including, but not limited to, local, state, and federal income taxes, sales taxes, and personal and real property taxes. This intent does not apply to any moneys withheld from an employee of the community school that are payable by the school to a government entity as taxes on behalf of the employee.

NOTE: Per ORC 1702.01:

*Nonprofit corporation* means a domestic or foreign corporation that is formed otherwise than for the pecuniary gain or profit of, and whose net earnings or any part of them is not distributable to, its members, directors, officers, or other private persons, except that the payment of reasonable compensation for services rendered and the distribution of assets on dissolution as permitted by section 1702.49 of the Revised Code is not pecuniary gain or profit or distribution of net earnings. In a corporation all of whose members are nonprofit corporations, distribution to members does not deprive it of the status of a nonprofit corporation.

*Public Benefit Corporation (PBC)* means a corporation that is recognized as exempt from federal income taxation under section 501(c)(3)<sup>22</sup> of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, or is organized for a public or charitable purpose and that upon dissolution must distribute its assets to a PBC, the United States, a state or any political subdivision of a state, or a person that is recognized as exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," as amended. PBC does not include a nonprofit corporation that is organized by one or more municipal corporations to further a public purpose that is not a charitable purpose.

<sup>22</sup> The IRS recently informed us it is possible they would assess Federal income taxes on a community school's "income," if they have not received or applied for\* exempt status. If you are auditing a nonexempt community school with positive equity or a positive "bottom line," they may require an accrued tax liability. AOS staff should consult with A&A if you encounter this.

\* An entity can be exempt from Federal income taxes retroactive to the date of incorporation or the date of filing for the exemption. See pages 20 & 21 of the application at: [www.irs.gov/pub/irs-pdf/f1023.pdf](http://www.irs.gov/pub/irs-pdf/f1023.pdf)

(Per the paragraph above, Community schools established after April 8, 2003 must apply for 501(c)(3) status with the IRS. Those established before that date need not apply for that exemption, though it is to their advantage to do so. <sup>23</sup>)

**Note:** Conversion schools may be exempt from these requirements. If questions arise, regarding conversion schools, refer them to you're A&A representative.

**Sample Questions and Procedures**

1. Inspect the tax status approval by the Ohio Secretary of State.
2. For PBC (i.e. schools established after April 8, 2003), inspect the IRS determination letter granting them tax-exempt 501(c)(3) status. Retain a copy or summary of the exemption in the permanent file. (We also would not cite them or consider the need to accrue income taxes if the school can document that they have filed an application for exemption with the IRS.)
3. For PBC and nonprofits with IRS exemptions, scan the Form 990 filed with the IRS.
  - a. Determine whether the school filed a 990 with the IRS.
  - b. Scan the 990. Do not spend significant time, but if you note obvious misstatements, including misstatements in sections describing officials' compensation, or "Other Information,"etc. include a management comment that the school should file an amended return.
4. Scan payments to determine if the school paid any taxes (excluding employee withholdings). Prohibited taxes include, but are not limited to, local, state, and federal income taxes, sales taxes, and personal and real property taxes. If the taxes paid exceeded foundation receipts for the same fiscal year, we may require a finding for recovery.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>

**Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):**

<sup>23</sup> The IRS could deem donations to a school lacking a Federal exemption to be nondeductible to the donor. If a school lacking a Federal exemption receives significant donations, include a comment in the management letter that these donations are possibly not deductible to the donor, and that the school must obtain an exemption to permit deductible donations.

**Section D: Family and Children First Councils**

**7-43 Compliance Requirement:** Ohio Rev. Code Section 121.37(B)(1)

**Summary of Requirements:** Each county must establish a Family and Children First Council. In addition to local public or private agencies or groups that fund, advocate or provide services to families and/or children having representatives on the board, each county council must include the following individuals:

- (a) At least three individuals whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.
- (b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, **or**, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.
- (c) The health commissioner, or the commissioner's designee, of the board of health of each city and general health district in the county. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two districts with the largest populations.
- (d) The director of the county department of job and family services;
- (e) The executive director of the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code;
- (f) The superintendent of the county board of mental retardation and developmental disabilities;
- (g) The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service;
- (h) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each board of county commissioners of its determination at least biennially;
- (i) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;
- (j) A representative of the municipal corporation with the largest population in the county;
- (k) The president of the board of county commissioners, or an individual designated by the board;
- (l) A representative of the regional office of the department of youth services;
- (m) A representative of the county's head start agencies, as defined in section 3301.31 of the Revised Code;
- (n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986";
- (o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.

**Sample Questions and Procedures**

Obtain a list of the council members and the entity they represent, and compare the membership to the legislatively required membership.

<b>Government Personnel Interviewed and Dates:</b>	<b>Documents Examined or Observations Made to Corroborate Inquiry:</b>	<b>W/P Ref.</b>
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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b>		

**7-44 Compliance Requirement:** Ohio Rev. Code Section 121.37(B)(4) - Family and Children First Councils - Administrative Agent

**Summary of Requirements:** Each Family and Children First Council must designate an administrative agent from among the following public entities: the board of alcohol, drug addiction, and mental health services, including a board of alcohol and drug addiction or a community mental health board if the county is served by separate boards; the board of county commissioners; any board of health of the county's city and general health districts; the county department of jobs & family services; the county agency responsible for the administration of children's services pursuant to section 5153.15 of the Revised Code; the county board of mental retardation and developmental disabilities; any of the county's boards of education or governing boards of educational service centers; or the county's juvenile court. Any of the foregoing public entities, other than the board of county commissioners, may decline to serve as the council's administrative agent.

The administrative agent serves as the council's appointing authority. In addition, the council must file an annual budget with the administrative agent and copies must be filed with the county auditor and the board of county commissioners.

If the County Council designates the Board of County Commissioners as its Administrative Agent, the County Commissioners can delegate, by resolution, any of its powers and duties as Administrative Agent, to an Executive Committee. (They may also repeal the resolution which provides for such delegation.) The Executive Committee is established by the Board and made up of members of the County Council<sup>24</sup>. The Board of County Commissioners may require the Executive Committee to submit an annual budget. An Executive Director may be hired (with Board approval) to assist the County Council.

Miscellaneous

Various other Ohio Compliance Supplement requirements apply to family and children first councils, including: Compliance Supplement Requirements 7-6 through 7-8, regarding daily deposit of funds, public meetings, and public records, respectively; Compliance Supplement Requirement 7-25 regarding withholding federal, state and local taxes; Compliance Supplement Requirement 7-26 regarding employee retirement system withholdings; and Compliance Supplement Requirement 7-33 regarding Ohio Ethics Laws. In addition, vacation and sick leave for family and children first councils are governed by the policies and procedures of the council's administrative agent.

<sup>24</sup> Ohio Rev. Code §121.37 (B)(4)(b) provides that the Executive Committee so established must include certain members of the County Council. Where an Executive Committee has been established, auditors should refer to the statute for the detailed requirements.

<p><b>Sample Questions and Procedures</b></p> <ol style="list-style-type: none"> <li>1. Who is your administrative agent?</li> <li>2. Please show me documentation that you have filed your annual budget with your administrative agent; and, that copies have been filed with the County Auditor and Board of County Commissioners.</li> <li>3. Has an Executive Committee been established (only if Board of County Commissioners has been designated as the Administrative Agent)? If so, please show me a copy of the Board’s resolution and a list of Executive Committee members.</li> <li>4. Use the guidance in the applicable sections to test compliance related to the Sections listed under “miscellaneous” above.</li> </ol>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		

**Section F: Cemeteries**

<div style="border: 1px solid black; padding: 2px; display: inline-block; margin-bottom: 10px;"> <b>New section effective Upon OCS issuance</b> </div> <p><b>7-45 Compliance Requirement:</b> <u>Ohio Rev. Code Section 4767.02 (A)</u></p> <p><b>Summary of requirement:</b> <u>Subdivisions may not own, operate or manage cemeteries unless they register with the Ohio Department of Commerce.</u></p> <p><u>The Department sends a certificate to evidence its acceptance of the registration. A subdivision's registration is valid as long as it operates the cemetery. Except, a subdivision must update its application if it intends to acquire additional land for cemetery use.</u></p> <p>(Note: The Department of Commerce requested us to test this. They have found a number of unregistered governmental cemeteries.)</p>		
<p><b>Sample Questions and Procedures</b></p> <p><u>Read the registration certificate ODOD issued to the cemetery.</u></p>		
<p><b>Government Personnel Interviewed and Dates:</b></p>	<p><b>Documents Examined or Observations Made to Corroborate Inquiry:</b></p>	<p><b>W/P Ref.</b></p>
<p><b>Conclusion: (effects on the audit opinions and/or footnote disclosures, reportable conditions/material weaknesses, and management letter comments):</b></p>		