

## CHAPTER 7

### CHECKLISTS FOR OTHER LAWS AND REGULATIONS

Due to public policy considerations, the Auditor of State requires auditors assess the risk of material noncompliance and test certain laws and regulations for compliance requirements in this chapter with elevated risks even though they probably do not, in *most* circumstances, have a quantitative “direct and material” effect on determining financial statement amounts.

**Important:**

1. You can **generally** rotate substantive compliance testing in this Chapter. For example, there are over 40 compliance requirements in this chapter. (Not all of them apply to all entity types.) You should divide the applicable requirements approximately in half, and test half of them with each audit.
  - a. This applies to annual and biannual audits.
    - i. For example, if you audited officials’ surety bonds for a village’s 2007 and 2008 audit and found them to be compliant, you normally can omit this test for the 2009 and 2010 audit.
  - b. You should **not** rotate / omit a specific compliance test if the prior audit identified noncompliance or if evidence supports an elevated risk of noncompliance for the current audit.
  - c. You should test new Compliance Supplement requirements in the first year of their applicability.
2. If (1) controls exist to help assure compliance with a specific requirement, and (2) you obtain satisfactory results from testing the controls’ operating effectiveness you may be able to limit or omit substantive testing of the requirement.
  - a. Some of the requirements in this chapter are more likely to be subject to formal controls than are others. For example, we would expect a large government with many employee cell phones (step 7-2) to establish formal controls to review and approve these payments (i.e. establish suitable authorization controls).
  - b. The AOS believes it is acceptable to rely on the results of prior audit’s tests of controls if auditors apply the proper “updating” procedures. That is, auditors may use the concepts from AU 318.40 -- .45.
  - c. This approach only requires tests of operating effectiveness once every third year, not every third audit.
    - i. However, the auditor must apply procedures in each intervening year to determine whether continued reliance is appropriate. For example, per AU 318.41, it is inappropriate to rely on a control that has changed since the auditor’s last test of its operating effectiveness.
3. Some steps in the chapter include additional guidance about the extent of testing applicable to that specific compliance requirement.

4. Auditors can normally use the extent of testing described in this chapter. However, if auditors identify specific risks related to specific compliance steps in this chapter, working papers should document these risk assessments, whether they be favorable (which may support less testing) or unfavorable (suggesting additional testing).

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.

As stated above, 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 unless the risk of noncompliance warrants testing of these requirements every 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.

*2007 Government Auditing Standards (GAGAS)* describes the auditor's compliance reporting obligations:

**5.15** Under AICPA standards and GAGAS, auditors have responsibilities for detecting fraud and illegal acts that have a material effect on the financial statements and determining whether those charged with governance are adequately informed about fraud and illegal acts. GAGAS include additional reporting standards. When auditors conclude, based on sufficient, appropriate evidence, that any of the following either has occurred or is likely to have occurred, they should include in their audit report [i.e. GAGAS report on compliance] the relevant information about:

- a. fraud and illegal acts that have an effect on the financial statements that is more than inconsequential,
- b. violations of provisions of contracts or grant agreements that have a material effect on the determination of financial statement amounts or other financial data significant to the audit, and
- c. abuse that is material, either quantitatively or qualitatively. (See GAGAS paragraphs 4.12 and 4.13 for a discussion of abuse.)

**5.16** When auditors detect violations of provisions of contracts or grant agreements or abuse that have an effect on the financial statements that is less

than material but more than inconsequential, they should communicate those findings in writing to officials of the audited entity. Determining whether and how to communicate to officials of the audited entity fraud, illegal acts, violations of provisions of contracts or grant agreements, or abuse that is inconsequential is a matter of professional judgment. Auditors should document such communications.

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 §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. ~~When testing payroll, determine if the government withholds state, federal and local income taxes. What policies and procedures do you have to ensure that the [Entity] is withholding federal, state, and local income taxes as required?~~

**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 at w/p 100.15 (payroll).**

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.~~

<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.

~~We have tested controls<sup>†</sup> on the payroll system. Our working papers reflect answers to questions 1 and 2. Our tests of controls and the results are found at w/p 100.15 (payroll).~~

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 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.

**Based on our inquiry with the treasurer, the superintendent has an auto allowance; however, the treasurer was unaware that it is a taxable benefit.**

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 such Forms 1099 issued.

**We tested controls over expenditures and contracts, noting no payments required to be reported on forms 1099. See w/p 103.03 (expenditures).**

~~4. If the government assesses an income tax, scan a few Forms 1099G for municipal income tax refunds exceeding \$10 each. 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.~~  
**This is a school district; therefore, question #5 is N/A.**

**Government Personnel Interviewed and Dates:**

We interviewed Molly McIntyre, treasurer, on July 17, 2010. We also performed tests of controls at various times. See the referenced working papers.

**Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/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 letter, we will report the failure to include the superintendent's auto allowance as a taxable fringe benefit on his form W-2. There is no material effect on the f/s, therefore no further action is necessary.

Chapter 7 – Checklists

Page

Part 1: Contracting and Purchasing

7-1 ORC 307.93(F), 341.25, 753.22, and 2301.57: Establishment and accounting treatment for commissaries.....8

7-2 Misc. local legislative body policies; charter requirements (for use of cell phones, government credit cards and purchasing cards, and government-owned vehicles and equipment), using personal credit cards .....9

7-3 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) (travel reimbursements; “frequent flyer miles” accrual/usage).....11

7-4 ORC 301.27, 301.29 County credit and procurement cards.....13

Part 2: Accounting and Reporting

Section A: General

7-5 ORC 9.38: Deposits of public money.....16

7-6 ORC 121.22: Meeting of public bodies to be open, exceptions, and notice.....18

7-7 ORC 149.43: Availability of public records and policies related thereto.....20

Section B: Courts

7-8 ORC 2335.25: Cashbook of costs etc.....24

7-9 ORC 2303.12: Books to be kept by clerk of the court of common pleas.....25

7-10 ORC 2101.12: Records to be kept by the probate courts.....26

7-11 ORC 2335.34 - .35: Unclaimed costs and fees (court of common pleas and probate court) .....27

7-12 ORC 2151.18: Records; annual report; distribution (juvenile court).....28

7-13 ORC 1907.20: Records required of county courts.....29

7-14 ORC 1901.31: Municipal court records.....30

7-15 ORC 1905.21 and 733.40: Records required and disposition of receipts for mayors’ courts.....32

7-16 Various ORC Sections: Collection, custody and disbursement of fees, fines etc.....33

7-17 ORC 2743.70, 2949.091: Additional court costs .....37

7-18 ORC 307.515 and 3375: Fines and penalties to be paid to law libraries.....38

7-19 ORC 2113.64, 2113.65: Unclaimed money (probate court).....40

Section C: Libraries

7-20 ORC 3375.36: Monthly statement; financial statement; depository .....41

Section D: Counties and County Hospitals

7-21 ORC 319.04: Training and continuing education requirements for county auditors .....43

7-22 ORC 319.11: County financial reports.....44

Section E: Townships

7-23 ORC 517.15: Permanent cemetery endowment fund .....45

Part 3: Payroll, Taxes

Section A: Federal, State and Local Taxes

7-24 Various federal and state codes: Income tax collection, liability etc.....47

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

7-25 Various ORC sections: Definitions, rates of contributions etc.....49  
 7-26 ORC 505.60, 505.601, OAG Op. 2005-038, and AOS Bulletin 2009-003:  
 Reimbursement of insurance premiums – Townships.....51  
 7-27 ORC 505.603 - “Cafeteria Plans” – Townships .....54

**Section C: Vacation and Sick Leave**

7-28 Various ORC sections: Vacation and sick leave benefits.....56

**Section D: Compensation Related Requirements**

7-29 Various ORC sections: Appointments, compensation, contracts etc .....59

*Part 4: Deposits and Investments*

7-30 Various ORC sections: Designating depositories.....62  
 7-31 Various ORC sections: Investment Education Requirements .....64

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

7-32 Various ORC Sections: Fraud, Abuse, and Illegal Acts; Conflict of Interest; Ethics .....67

*Part 6: Prohibited Political Activity*

7-33 ORC 9.03, 124.57, 124.59, 124.61, 3315.07 (C): Political activities prohibited .....70

*Part 7: Public Officials’ Bonding Requirements*

7-34 Various ORC Sections: Bonding requirements .....72

*Part 8: Other Special Entity Requirements*

**Section A: County Requirements**

7-35 ORC 325.071, 325.12, 325.13: Furtherance of justice allowance.....74  
 7-36 ORC 325.07: Sheriff’s transportation of prisoners allowance.....76  
 7-37 ORC 343.01, 3734.52, 3734.55, 3734.56, 3734.57(B), 3734.573 and 3734.57(G) –  
 Expenditures by solid waste management district) .....77

*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

**Section B: Municipality Requirements**

7-38 Various ORC Sections: Electric kilowatt-hour tax.....79

**Section C: School Requirements (including community schools)**

7-39 Various ORC and OAC Sections: Licensing requirements.....81  
 7-40 ORC 3313.291 - School District Petty Cash Accounts .....83  
 7-41 ORC 3314.03(A), ~~3314.082~~ Community School Tax Status .....84  
 7-41 ORC 3701.93, 3701.931, 3701.932 Jarod’s Law/School Health Inspections .....85  
 7-42 ORC 3313.642 School Fees for Low-Income Students .....87

*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

7-43 ORC 3313.666(A), (B), and (C) and 3314.03(A)(11)(d) Anti-Bullying Provisions .....88

*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

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

7-44 ORC 121.37(B)(1) Establishment and membership on Family and Children First Councils.....90

7-45 ORC 121.37(B)(5)(a) Administrative Agent.....92

**Section E: All Entities**

7-46 ORC Chapter 1347 Storage, Use and Distribution of Personal Information.....94

7-47 ORC 117.13(C)(3) Allocating Audit Costs.....96

*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

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

**7-1 Compliance Requirement:** Ohio Rev. Code Sections 307.93(F), 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**<sup>2</sup>. 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 require updating?
3. Scan selected 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.

<b>Government Personnel Interviewed and Dates:</b>
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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</b>
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<sup>2</sup> AOS Bulletin 97-011 permits correctional facilities to issue a check to an inmate for the balance of the inmate's commissary account. The Auditor of State will also permit correctional facilities to develop reasonable policies and procedures for the use of debit cards, in lieu of a check, when disbursing remaining balances, less amounts owed to the correctional facility, of inmate commissary funds.

**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 Ohio Rev. Code 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 Ohio Rev. Code authorized counties, townships, park districts and agricultural societies to use credit cards.<sup>3</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>4</sup>

Note: Effective Jan. 8, 2004, Ohio Rev. Code §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 step 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

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<sup>3</sup> If there is doubt about an entity's authorization to use credit cards, the government should consult with its legal counsel.

<sup>4</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*.

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.)

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.

**Government Personnel Interviewed and Dates:**

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

**7-3 Compliance Requirement:** Misc. local legislative body policies; charter requirements; Ohio Ethics Commission<sup>5</sup> 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 and credit card rewards.

**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>6</sup>

Ohio Ethics Commission Advisory Opinion No. 91-010 prohibits a state official or employee (Ohio Rev. Code §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.

In an informal opinion dated February 24, 2003, the Ohio Ethics Commission concluded that a public official or employee may retain the benefits of a reward program in connection with business travel expenses charged on a **personal** credit card except: (1) when he directs his purchase to take advantage of a reward program and it results in a higher cost to the state and (2) where the employee seeks reimbursement greater than what he is billed by his credit card issuer due to a discount.

The Auditor of State will also not object to employees retaining rewards for other legitimate, reimbursable governmental expenses when an employee extends their personal credit (i.e. uses their personal credit card) to assist in a governmental function, subject to the two exceptions described above.

**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 step 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.**

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<sup>5</sup> Ethics Commission Referrals

All potential “consequential” ethics law violations are to be submitted to the Auditor of State Legal Division. After review, the Auditor of State Legal Division will make appropriate referrals. The Audit Division should consult with the Legal Division in determining how or if to report this matter. IPA’s should consult with the Quality Assurance Division.

<sup>6</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*.

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).
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.
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.

**Government Personnel Interviewed and Dates:**

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

**7-4 Compliance Requirement:** Ohio Rev. Code §301.27 (county credit cards) and §301.29 (county procurement cards or “p-cards.”) These statutes require counties to establish policies and controls governing the use of county credit cards and p-cards.<sup>7</sup>

**Summary of Requirements: 301.27 (credit cards) requirements include the following:**

Note: Ohio Rev. Code §113.40(A)(1) defines credit cards as *financial transaction devices*, which Ohio Rev. Code §301.27 defines to include 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: Ohio Rev. Code §301.29 defines procurement cards as any *financial transaction device* as defined in Ohio Rev. Code §301.28 including credit cards,<sup>8</sup> charge cards, debit cards, or prepaid or stored value cards the commissioners deem to be procurement cards. P-card requirements are

<sup>7</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>8</sup> Credit cards the commissioners deem to be “credit cards” follow the credit card provisions of Ohio Rev. Code §301.27. Credit cards the commissioners deem to be “p-cards” follow the procurement card provisions of Ohio Rev. Code §301.29.

similar to credit card 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 – 6 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 --6. We can limit the extent of our procedures in steps 7 – 10 based upon the significance of Pcard and credit card expenditures in relation to the entity's total nonpayroll disbursements. If desired, you can include these payments in your non-payroll samples.**

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 selection of 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.

**Government Personnel Interviewed and Dates:**

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

## Part 2: Accounting and Reporting

### Section A: General

**7-5 Compliance Requirement:** Ohio Rev. Code §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 Ohio Rev. Code §9.38. (We can limit step 3 to every other audit, unless we have reason to believe there may be issues with this.)

**Government Personnel Interviewed and Dates:**

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

**7-6 Compliance Requirement:** Ohio Rev. Code §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. [Ohio Rev. Code §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. [Ohio Rev. Code §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 [Ohio Rev. Code §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. [Ohio Rev. Code §121.22(H)]

**Note: Per OAG 2007-019**

1. Neither the Ohio Rev. Code nor generally accepted rules of parliamentary procedure require a board of township trustees to vote to approve the minutes of its regular meetings. Except: A board of township trustees may be required by a formal motion of a trustee or the board's rules for meeting procedure to vote to approve the minutes of a regular meeting. When a board of

township trustees is required to vote to approve the minutes of a regular meeting, the vote must follow the board's rules for meeting procedure.

2. A board of township trustees is not required by statute to prepare and distribute to the public or media a written agenda for a regular meeting.

**Sample Questions and Procedures:**

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.

**Government Personnel Interviewed and Dates:**

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

**7-7 Compliance Requirement:** Ohio Rev. Code §149.43 - Availability of public records<sup>9</sup> [Each type of governmental entity has its own records commission as established in Ohio Rev. Code §149.38 - counties, §149.39 - municipalities, §149.41 – school districts and educational service centers<sup>10</sup>, §149.411 - libraries, §149.412 – special taxing districts, & §149.42 – townships.]

**Summary of Requirement:** Ohio Rev. Code §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.

Ohio Rev. Code §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 (Ohio Rev. Code §2151.85), “security”<sup>11</sup> or “infrastructure”<sup>12</sup> records defined under Ohio Rev. Code §149.433 adoption records (Ohio Rev. Code §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<sup>13</sup> public records in such a manner that they can be made available for inspection. [Ohio Rev. Code §149.43(B)(1)]

#### ***Public Records Policies and Posters***

Pursuant to Ohio Rev. Code §149.43(E), the Ohio Attorney General shall develop and provide to

<sup>9</sup> Ohio Rev. Code Section 3314.03(A)(11)(d) requires that each contract entered into between a sponsor and the governing authority of a community school shall specify that the school will comply with ORC Section 149.43. Therefore, AOS interprets the requirements of ORC Section 149.43 described in this OCS step to be applicable to community schools.

<sup>10</sup> This statute applies to each city, local, joint vocational, and exempted village school district as well as each educational service center. However, this statute does not apply to community schools. Community schools do not have a statutory records commission.

<sup>11</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.” [Ohio Rev. Code §149.433]

<sup>12</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. [Ohio Rev. Code §149.433]

<sup>13</sup> Maintaining official records includes recording or copying to reduce storage space by any means which correctly and accurately reproduces, or provides a medium of copying, or reproducing, the original record [Ohio Rev. Code §9.01]. Therefore, scanned documents are considered properly maintained as long as they can be accurately reproduced.

all public offices a model public records policy for responding to public records requests in compliance with Ohio Rev. Code §149.43 in order to provide guidance to public offices in developing their own public record policies for responding to public records requests in compliance with that section. This model policy is available at [www.ag.state.oh.us/publicrecords/modelpolicy.asp](http://www.ag.state.oh.us/publicrecords/modelpolicy.asp).

<http://www.ohioattorneygeneral.gov/files/Publications/Publications-for-Legal/Sunshine-Laws/Model-Public-Records-Policy.aspx>

Pursuant to Ohio Rev. Code 149.43(B)(2), the entity shall have available a copy of its current records retention schedule at a location readily available to the public. The auditor of state, in the course of an annual or biennial audit of a public office pursuant to Ohio Rev. Code Chapter 117 shall audit the public office for compliance with this section and divisions (B) and (E) of Ohio Rev. Code §149.43. [Ohio Rev. Code §109.43(G)] The Auditor of State must ensure compliance with public records policy provisions.

Every public office must have a policy in place for compliance with Public Records Laws. There are three specific items that public offices cannot have in their public records policies. They policy cannot: (1) limit the number of public records it will make available to a single person; (2) limit the number of public records it will make available during a fixed period of time; or (3) establish a fixed period of time before it will respond to a request for inspection/copying of public records unless that period is less than eight hours. However, pursuant to Ohio Rev. Code 149(B)(7), the policy may limit the number of responses delivered by U.S. Mail to ten per month unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, “commercial” shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research. All public offices are required to distribute their Public Records Policy to the employee who is the records custodian/manager of otherwise has custody of the records of that office. Per Bulletin 2007-014, AOS will require written evidence that the records custodian/manager acknowledged receipt of a copy of the policy.

By September 29, 2007, all public offices were required to create a poster describing its public records policy. In addition, the public office is required to post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. Finally, if the public office has an employee policies and procedures manual or handbook, it is required that the public records policy be included in such manual or handbook. [Ohio Rev. Code §149.43(E)(2)] The AOS will require that: (1) the public office created a poster to describe its Public Records Policy; (2) the poster containing the policy has been posted in required locations; and (3) the policy has been included in the employee manual/handbook.

### ***Destruction of Public Records***

Any application or schedule for the destruction of records must be sent to the Ohio Historical Society for review to determine whether any of the records are of historical value [Ohio Rev. Code §149.39] Once reviewed by the Ohio Historical Society, the applications are then forwarded to the Ohio Auditor of State’s Office, ~~General Services Department~~ for final approval. [The following governments have separate records commission requirements: Ohio Rev. Code §149.38 - counties, §149.39 - municipalities, §149.41 – school districts and educational service

centers<sup>14</sup>, §149.411 - libraries, §149.412 – special taxing districts, & §149.42 – townships.]

### **Public Records Training**

All state and local elected officials<sup>15</sup>, or their designees<sup>16</sup>, must attend at least 3 hours of training on Ohio's Public Records Laws during each term of office. [Ohio Rev. Code §109.43(B) & §149.43(E)(1)] The training received must be certified by the Ohio Attorney General. Proof that training has been completed must include documentation that either the Attorney General's Office or another entity certified by the Attorney General provided the training to the elected official, or his/her designee. Attendees who successfully complete the training will receive a certificate to serve as proof of training.

Refer to AOS Bulletin 2007-014 for additional information pertaining to Ohio Public Records Law.

### **Sample Questions and Procedures:**

~~You can limit steps 1—3 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.~~

Unless the prior audit detected noncompliance:

- You can limit steps 1-7 to years in which the auditee adopted or changed its policy.
- You can limit steps 8 and 9 to every other audit. 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.
4. Obtain the entity's Public Records Policy and scan it to be sure that the policy does not limit the number of responses that will be made to a particular person, or limit the number of responses during a specified period of time, or establish a fixed period of time before it will respond unless that period is less than eight hours.
5. Ascertain whether the entity's policy was included in policy manuals, and displayed conspicuously in all branches of the public office. As part of this process, determine whether written evidence exists that the Public Records Policy was provided to the records custodian/manager.

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<sup>14</sup> This statute applies to each city, local, joint vocational, and exempted village school district as well as each educational service center. However, this statute does not apply to community schools. Community schools do not have a statutory records commission.

<sup>15</sup> Includes officials elected to local or statewide office, but does not include: justices of the Supreme Court, court of appeals, common pleas, municipal court, county court, or a clerk of any of those courts.

<sup>16</sup> Designees must be employees in the public office and there must be evidence of the designation. If there is more than one elected official in the public office, the designee should be the designee for all of the elected officials within the office.

6. Ascertain whether the entity's policy for records retention (note: this is not the same policy as the public records policy) includes provisions for the application or schedule for destruction of public records, including transmission to the Ohio Historical Society and approval by the Auditor of State's Office.
7. ~~Ascertain whether the entity has a records retention policy readily available to the public.~~
8. Determine whether each elected official, or his/her designee, has successfully attended a certified three-hour Public Records Training for each term of office. Obtain copies of their certificates of completion and place them in the permanent file for future reference.
9. If a designee attended the course, determine whether the designee was an employee of the public office and obtained evidence of the designation.
10. ~~Ascertain whether the entity has a records retention policy readily available to the public.~~

**Government Personnel Interviewed and Dates:**

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

**Section B: Courts**

**7-8 Compliance Requirement:** Ohio Rev. Code §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.

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements.

**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 Ohio Rev. Code purposes.

**Government Personnel Interviewed and Dates:**

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

**7-9 Compliance Requirement:** Ohio Rev. Code §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.

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**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 Ohio Rev. Code purposes.

**Government Personnel Interviewed and Dates:**

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

**7-10 Compliance Requirement:** Ohio Rev. Code §2101.12 - Records to be kept by the probate court.

**Summary of Requirement:** Probate courts must maintain:

- (A) Administration docket
- (B) Guardian docket
- (C) Civil docket
- (D) Minutes journal
- (E) Record of wills<sup>17</sup>
- (F) Execution dockets

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**Sample Questions and Procedures:**

1. Are the aforementioned records maintained? (Note: We will normally know most of this from performing financially-related audit procedures.)
2. ~~Are there any cash collections made by the court that are not entered into a cashbook? Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews). 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 Ohio Rev. Code purposes.~~

**Government Personnel Interviewed and Dates:**

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

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<sup>17</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.

**7-11 Compliance Requirement:** Ohio Rev. Code §2335.34 - Lists of unclaimed costs. Ohio Rev. Code §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. [Ohio Rev. Code §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. [Ohio Rev. Code §2335.35]

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.**

**Sample Questions and Procedures:**

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:**

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

**7-12 Compliance Requirements:** Ohio Rev. Code §2151.18 - Records; annual report; distribution (**juvenile court**).

**Summary of Requirement:** 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.)

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: Since this report is not a financial report, we do not require testing information in it.)

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**Sample Questions and Procedures:**

1. Are the aforementioned records maintained?
2. ~~Are there any cash collections made by the court that are not entered into the journal or cashbook? Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews). 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 Ohio Rev. Code purposes.~~

**Government Personnel Interviewed and Dates:**

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

**7-13 Compliance Requirement:** Ohio Rev. Code §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 Ohio Rev. Code §1907.20(D))

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.**

**Sample Questions and Procedures:**

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews). 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 Ohio Rev. Code purposes.
3. Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
4. How do you identify amounts unclaimed for more than one year?
5. Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
6. How much was paid to the county for unclaimed funds during April of the year under audit?

**Government Personnel Interviewed and Dates:**

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

**7-14 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. [Ohio Rev. Code §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). [Ohio Rev. Code §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.)

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.**

**Sample Questions and Procedures:**

1. Are the aforementioned records maintained? (Note: We will normally know this from performing financially-related audit procedures.)
2. Describe procedures used to assure that these records are complete and accurate (e.g., supervisory reviews). 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 Ohio Rev. Code purposes.
3. Please show me an example of the correspondence you send regarding unclaimed funds to the party or to their attorney.
4. How do you identify amounts unclaimed for more than one year?
5. Show me your reconciliation of cash balances to the detailed listing of unclaimed funds.
6. How much was paid to the county for unclaimed funds in April following the year under audit?

**Government Personnel Interviewed and Dates:**

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

**7-15 Compliance Requirement:** Ohio Rev. Code §1905.21 - Docket; disposition of receipts. Ohio Rev. Code §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. [Ohio Rev. Code §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. [Ohio Rev. Code §733.40]

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**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:**

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

**New: HB 1, 128<sup>th</sup> GA**  
**Effective: 10/16/09**

**7-16 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 <sup>18</sup>
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)
2949.094(A)	15% Add-on fee for indigent alcohol treatment fund
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)
2949.094(A)	15% Add-on fee for indigent alcohol treatment fund
4511.193	Fee for indigent alcohol treatment fund

***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
2949.094(A)	15% Add-on fee for indigent alcohol treatment fund
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

<sup>18</sup> HB 226 [R.C. 1901.26(A)(1)(b)(i)] authorizes municipalities to establish fees for services related to a municipal court performed by officers or other employees of the municipal corporation's police department or marshal's office of any of the services specified in R.C. 311.17 and 509.15. The act provides that no fee in the schedule may be higher than the fee specified in R.C. 311.17 for the performance of the same service by the sheriff. If a fee set by municipal ordinance conflicts with a fee for the same service established in a statute or rule of court, the fee established in the statute or rule applies.

5310.05	Assurance fund rate
5310.06	Monthly payments of money to treasurer of state, investment of funds
5310.15	Miscellaneous Fees

**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*
2949.094(B)	15% Add-on fee for indigent alcohol treatment fund
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*
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 ( <b>Note:</b> Ohio Rev. Code §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 furnishing 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)
2937.22	<u>Surcharge for Bail for offenses other than traffic offenses or moving violations</u>
2949.091	Execution of sentence (collection and remittance to state)
2949.094	Additional court cost for alcohol treatment and drug law enforcement funds ( <i>fee per offender, not moving violation</i> )
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

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.

#### POSSIBLE NONCOMPLIANCE RISK FACTORS:

**Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.**

#### Sample Questions and Procedures:

Note: The Ohio Rev. Code 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 and examine how the court updates its fines and fees schedule for new fines/fees and changes to existing legislation. Ask the court to demonstrate how it updated its fines/fees schedule for the most recent statutory change and ensures the fines/fees collected are properly distributed to the appropriate fund. (e.g., ~~HB 215 recently revised the mechanism for distribution of 15% of the court cost add on to the indigent drivers alcohol treatment fund~~ RC 2937.22 now imposes a \$25 surcharge when posting bail for violations, except non-moving traffic offenses) ~~and ensures the fines/fees collected are properly distributed to the appropriate fund.~~ (Typically, we only require a low degree of assurance over compliance with this requirement. However, where courts are a material audit cycle, auditors should evaluate general IT controls (AOS staff should complete the RCEC) for automated court systems. When fine schedules are stored as standing data in an automated system subject to adequate general IT controls, examining one ~~or two~~ fines

*subject to HB 215, fine or fee that changed (the bail surcharge for example), normally provides sufficient evidence that the proper fine was charged. We also do not require staff to test all fine amounts set by statute. Instead, the objective should be to determine if the court is conscientious in updating its fine schedule timely and accurately.)*

2. 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.

**Government Personnel Interviewed and Dates:**

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

**7-17 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.

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**Sample Questions and Procedures:**

Note: The Ohio Rev. Code 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.

Inquire and examine how the court updates its fines and fees schedule and ensures the fines/fees collected are properly distributed to the appropriate funds. Ask the court to show you a few state fund reparations costs and determine they were distributed reasonably. *(Typically, we only require a low degree of assurance over compliance with this requirement. However, where courts are a material audit cycle, auditors should evaluate general IT controls (AOS staff should complete the RCEC) for automated court systems.)*

**Government Personnel Interviewed and Dates:**

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

**7-18 Compliance Requirement:** Ohio Rev. Code §3375.53 - Fines and penalties for violation of liquor control laws and state traffic laws paid to **law libraries** (various courts). Effective January 1, 2010, Ohio Rev. Code §3375.53 is repealed and reenacted as §307.515(D).

Ohio Rev. Code §3375.52 - Court of **common pleas** and **probate court** to pay fines and penalties to law library. Effective January 1, 2010, Ohio Rev. Code §3375.52 is repealed and reenacted as §307.515(C).

Ohio Rev. Code §3375.50 - Allowance to law libraries from fines and penalties of **municipal courts**. Effective January 1, 2010, Ohio Rev. Code §3375.50 is renumbered as §307.515(A).

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

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**Sample Questions and Procedures:**

Note: The Ohio Rev. Code 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.

Inquire and examine how the court identifies fines and penalties collected under the statutes above and ensures they are properly distributed to the law libraries. (Effective January 1, 2010, distributions should be to the county law library resources fund). Ask the court to show you a few fines and penalties for violation of liquor control laws and state traffic laws. Determine these collections were properly distributed to the law library. (*Typically, we only require a low degree of assurance over compliance with this requirement. However, where courts are a material audit cycle and where courts are relying on general IT controls to identify and accumulate fines and penalties subject to distribution to law libraries, auditors should evaluate general IT controls (AOS staff should complete the RCEC) for automated court systems.*)

**Government Personnel Interviewed and Dates:**

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

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**7-19 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.

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in courts is inherently higher. In assessing the risk of noncompliance, auditors should consider whether courts have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of court personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with court requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.

**Sample Questions and Procedures:**

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

**Government Personnel Interviewed and Dates:**

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

## Section C: Libraries

**7-20 Compliance Requirement:** Ohio Rev. Code §3375.36 - monthly statement; financial statement; depository.

**Summary of Requirement:** The fiscal officer (renamed pursuant to SB 185, 127<sup>th</sup> General Assembly, effective 6/20/2008) must 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 fiscal officer 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 fiscal officer for library purposes are to be immediately placed in the designated depository.

### POSSIBLE NONCOMPLIANCE RISK FACTORS:

**Note: Due to the large volume of over the counter cash receipts and the complexity of statutory fines and fees, the risk of noncompliance in libraries is inherently higher. In assessing the risk of noncompliance, auditors should consider whether libraries have historically demonstrated effective internal controls and compliance with applicable requirements. Additionally, adequate training of library personnel, segregation of duties, and supervisory monitoring controls can help mitigate the risk of noncompliance with library requirements. Therefore, it may not be appropriate to rotate this step unless our noncompliance risk factors adequately support a reduction in compliance testing.**

### 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 fiscal officer 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 fiscal officer 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 fiscal officer uses UAN-generated reports to fulfill these requirements, there is no need to test these reports. Document evidence that the fiscal officer uses UAN reports to meet these requirements.

### Government Personnel Interviewed and Dates:

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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</b>
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**Section D: Counties and County Hospitals**

**7-21 Compliance Requirements:** Ohio Rev. Code §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.

**Government Personnel Interviewed and Dates:**

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

**7-22 Compliance Requirement:** Ohio Rev. Code §319.11- County financial reports.

**Summary of Requirements:** Ohio Rev. Code §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:**

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

**Government Personnel Interviewed and Dates:**

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

## Section E: Townships

**7-23 Compliance Requirement:** Ohio Rev. Code §517.15 – Creates the permanent cemetery endowment fund.<sup>19</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.

Townships may receipt money from various sources into this fund, *which becomes part of the nonexpendable fund principle*.<sup>20</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 Ohio Rev. Code §517.15, as the Bill Analysis in the footnote below describes.)

Note: Depending upon the amounts involved and the significance of this fund to *remaining fund information*, auditors may need to test this requirement every audit (i.e. may not be able to rotate this step).

### Government Personnel Interviewed and Dates:

### Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):

<sup>19</sup> Ohio Rev. Code 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>20</sup> According to the Bill Analysis of Amended Substitute House Bill Number 513, 124th 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. (§517.15.)

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## Part 3: Payroll, Taxes

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

**7-24 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>21</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.

#### POSSIBLE NONCOMPLIANCE RISK FACTORS:

**Note:** Auditors should consider whether governments have historically demonstrated effective internal controls over payroll. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with payroll compliance requirements.

<sup>21</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.

**Risk of material noncompliance is elevated when governments are in financial distress and may not pay withholdings when due. In these circumstances auditors should not rotate this test, and should determine whether the government is remitting withholdings when due.**

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

**Sample Questions and Procedures:**

Note: It is normally efficient to integrate step 1 below 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<sup>22</sup>? 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:**

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

<sup>22</sup> The IRS rules regarding whether fringe benefits are taxable can be complex, and subject to frequent revision, such as by interpretive private letter rulings. For example: Uniforms are usually nontaxable if they meet these two tests: (1) the employee must be required to wear the article of clothing while at work (2) the item cannot be adaptable to everyday wear. Many commonly-required work clothes are adaptable (heavy-duty jeans, etc.) and would therefore normally be taxable benefits. In private letter\* ruling 201005014, the IRS determined employer-provided clothing is a nontaxable benefit for employees of a political subdivision of a state. However, the IRS cautioned us that the private letter ruling applied only to the narrow circumstances described therein and ought to not be construed to mean government-provided clothing is generally nontaxable. Therefore, governments should obtain IRS publications or advice from a qualified tax practitioner in determining whether benefits are taxable. It is impractical to include this guidance in the Ohio Compliance Supplement.

\* Letter Rulings may not be cited as a precedent by any government other than the one which requested the ruling; however, your legal advisor might find it useful to review.

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

### 7-25 Compliance Requirement:

- 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, 3307.35, 3307.51, 3307.53, 3307.56, and 3307.691 - **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>23</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<sup>24</sup> 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.

### POSSIBLE NONCOMPLIANCE RISK FACTORS:

**Note: Auditors should consider whether governments have historically remitted employee and employer contributions to the appropriate retirement systems timely and demonstrated effective internal controls over payroll. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with retirement system compliance requirements.**

**Risk of material noncompliance is elevated when governments are in financial distress and may not pay the contributions when due. In these circumstances auditors should not rotate this test, and should determine whether the government is remitting withholdings when due.**

### Sample Questions and Procedures:

1. When testing payroll transactions, determine if the government withheld pension

<sup>23</sup> Effective 4/8/03, The Secretary of SERS certifies to ODE amounts ODE is to withhold from community school foundation payments for pension costs.

<sup>24</sup> Independent contractors performing the same duties as school employees as defined in Ohio Rev. Code §3307.01, such as contract teachers teaching in a classroom, may also be subject to membership in the STRS retirement system.

- amounts at the proper rate.<sup>25</sup>
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 withholdings 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, even if not quantitatively material **would usually be qualitative material noncompliance**.)

<b>Government Personnel Interviewed and Dates:</b>
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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</b>
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<sup>25</sup> Pursuant to IRC Section 3121(b)(7), AOS considers employees of community school management companies who perform teaching and administrative services to be members of STRS or SERS. Therefore, the mandatory employee and employer contributions must be paid into the appropriate State retirement systems. We have therefore previously cited management companies that *also* deducted and paid contributions to social security. Auditor Taylor formally requested the IRS to confirm that it would defer to the Ohio Retirement Systems' determination and consider the community school employees exempt from social security due to their participation in a qualified retirement plan. However, the IRS declined to confirm this exemption. Therefore, management companies may determine to risk potential IRS penalties and deem an employee to be an employee of the management company rather than the school. Contributions should continue to be remitted to the appropriate Ohio Retirement Systems if management company Boards determine the employees are members of an Ohio Retirement System. Failure to do so will still result in non-compliance citations. ***However, auditors should no longer issue noncompliance citations for additional contributions to the social security system.***

**7-26 Compliance Requirements:** Ohio Rev. Code §505.60 and 505.601, AOS Bulletin 2009-003, and 2005 Op. Atty. Gen. No. 2005-038 - Reimbursement of insurance premiums – Townships.<sup>26</sup>

**Summary of Requirements:**

Effective December 30, 2008, House Bill 458 made relevant changes to health care reimbursements for township officials, employees, and their dependents. These changes are explained below.

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 §505.60, **or** who elects not to participate in the township's plan. House Bill 458 clarifies that the township may reimburse for each out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits that the board could have provided under Ohio Rev. Code §505.60(A). The reimbursement cannot exceed an amount equal to the average premium paid by the township under any health care plan it procures [Ohio Rev. Code §505.60(D)].

HB 458 further clarifies that the requirements governing township-procured health insurance coverage apply equally to township-paid coverage through a health insuring corporation contract as follows:

- that an officer or employee may decline coverage under either method without affecting the availability of coverage to other officers and employees
- that either method may provide the same kinds of coverage
- that coverage under either method is to be paid from the same township sources used to pay employee and officer compensation
- that immediate dependents may be covered under either method
- that reimbursement of an officer or employee for premiums paid for alternative coverage (e.g., through a spouse) is only for the part of the premium paid for the same kinds of coverage offered by the township's plan, whether it be provided through insurance or a health insuring corporation contract

A township not procuring 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 §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

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<sup>26</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 §213(d)) of the taxpayer, his spouse, and his dependents . . .”. §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.

each officer and employee,

3. The resolution states the specific benefits, pursuant to Ohio Rev. Code §505.60(A), that will be reimbursed.

HB 458 makes similar changes to R.C. 505.601 (reimbursement when a township does *not* offer health insurance to its officers/employees) regarding reimbursements made to township officers/employees for dependant health care coverage. The Bill clarifies that the reimbursement is only for the part of the out-of-pocket premium attributable to the coverage provided for the officer or employee for insurance benefits that the board could have provided under R.C. 505.60(A), and that the reimbursement covers immediate dependents in addition to the officer or employee.

*Note: 2005 Op. Atty. Gen. No. 2005-038 states that townships are not authorized to directly reimburse the employer of a township officer or employee's spouse for the cost of family coverage under a health care plan provided to the spouse by the spouse's employer. Auditors should consider appropriate findings if such reimbursements are identified. However, the officer or employee can be directly reimbursed for the out-of-pocket premium attributable to that officer or employee for health care coverage provided through the employer of a spouse as outlined in R.C. Sections 505.60 and 505.601.*

**Auditors should refer to AOS Bulletin 2009-003, House Bill 458 – Changes to Dependent Health Care Coverage and to R.C. 5705.05 & R.C. 5705.06, for additional information and uncodified guidance pertaining to previously issued findings for recovery.**

#### **POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note: In assessing the risk of noncompliance, auditors should consider recent changes to the statutory requirements described in this OCS step. This statute has been amended several times over recent years. As a result, there is an increased risk of noncompliance.**

#### **Sample Questions and Procedures:**

1. Did the township reimburse any officer or employees for insurance benefit premiums during the period?
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.)
3. Were the employers of any township officers or employees' spouses reimbursed for family coverage obtained through a spouse? If so, auditors should report findings, as appropriate. However, based on conflicting opinions of several prosecuting attorneys as well as the amendments to Ohio Rev. Code §505.60 and 505.601, effective December 20, 2008, which generally allow for reimbursement for family coverage, we will not issue FFRs for 2008 and earlier audit periods.
4. Describe your procedures for ensuring reimbursements meet the requirements of [§505.60(C) or the reimbursement resolution].
5. Please show me a few employees' reimbursement transactions.

**Government Personnel Interviewed and Dates:**

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

**7-27 Compliance Requirements:** Ohio Rev. Code § 505.603 - “Cafeteria Plans” - Townships.<sup>27</sup>

**Summary of Requirements:** In addition to or in lieu of providing benefits to township officers and employees under Ohio Rev. Code §505.60, 505.601, or 505.602, 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

**Sample Questions and Procedures:****Note:**

- **None of these steps apply if a township does not have a cafeteria plan.**
- **Steps 1 – 4 only apply when a township adopts or amends a cafeteria plan during the audit period.**
- **Reviewing the permanent file should address steps 1 – 4 for years in which there is no amendment.**
- **Steps 5 – 8 apply (on a rotational basis) for every audit in which a cafeteria plan exists.**

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.

<sup>27</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 §213(d)) of the taxpayer, his spouse, and his dependents . . .” §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.

4. Review the policy document for conformance with the requirements.
5. Describe your procedures for ensuring reimbursements met the requirements of §505.603.
6. Please show me [number] of signed statements with the attestations and the required information.
7. Calculate or review the 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:**

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

**Section C. Vacation and Sick Leave**

**7-28 Compliance Requirements:** Vacation and sick leave

**Vacation leave:**

Ohio Rev. Code §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 statutes, ordinances or charters.

**Ohio Rev. Code §325.19 —County vacation leave**

<b>Ohio Rev. Code §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 Ohio Rev. Code §124.13. However, this Section prescribes the same vacation accruals as does Ohio Rev. Code §325.19, above.

**Ohio Rev. Code §3319.084-- School nonteaching employee vacation leave**

<b>Ohio Rev. Code §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

**Ohio Rev. Code §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 Ohio Rev. Code §9.44 regarding the exceptions.

**Sick leave:**

Ohio Rev. Code §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 Ohio Rev. Code §5126.20. Ohio Rev. Code §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 §3319.141).

Ohio Rev. Code §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 Ohio Rev. Code §124.39, employees governed by Ohio Rev. Code §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 describe 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.

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Auditors should consider whether governments have vacation and sick leave policies placed in operation and have historically demonstrated effective internal controls over payroll and related compliance requirement. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with vacation and sick leave compliance requirements.

**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 and online with standing data, very limited recomputations of additions to leave balances should suffice for testing credits (i.e. additions) 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:**

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

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## Section D. Compensation Related Requirements

### 7-29 Compliance Requirements: Ohio Rev. Code:

#### Schools:

§3311.19 and 3313.12 - School board compensation and mileage

§3314.025 – Community School board compensation<sup>28</sup>

§3313.24 - Compensation of School Treasurer<sup>29</sup>

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

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

§3319.08 - Teacher employment and reemployment contract

§3319.10 - Employment and status of substitute teachers

§3319.081 - Contracts for non-teaching employees

§2921.43(A)(1) and Ohio Ethics Commission Op. No. 2008-01 – Compensation of school employees by outside organizations<sup>30</sup>

#### Courts:

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

§2151.13 - Employees; compensation (courts).

<sup>28</sup> Under Ohio Rev. Code §3314.025, the governing authority of a start-up community school may adopt a resolution to compensate its members for attending meetings of the governing authority. A member may be compensated up to \$125 per meeting. However, an individual may not receive more than \$125 total per month from each governing authority on which the person serves. Since the act limits members to serving on two start-up community school governing authorities, a member could not receive more than \$250 per month for meeting attendance. If an individual serves on two governing authorities that meet at the same place on the same day, the individual's compensation for both meetings combined cannot be more than the highest per member, per-meeting amount authorized by those governing authorities. That amount must be divided evenly between the two schools. Compensation for governing authority members generally must be paid by the community school's fiscal officer from the school's operating funds. However, in the case of a school managed by an operator, the compensation must be paid by the operator from fees paid to it by the school.

<sup>29</sup> ODE has indicated that, under Ohio law, treasurers must account for/administer all school district funds and accounts. 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 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 (2 CFR 225, Appendix A, part C.1.c) because in order for a Federal program cost to be allowable, it must be authorized or not prohibited under State or local laws or regulations. 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.

<sup>30</sup> Ohio Ethics Commission Opinion No. 2008-01 prohibits a school employee (including coaches, teachers, administrators, supervisors, district officials, management level employees regardless of his or her duties) from being compensated for services provided for a school-related activity by any source other than the employing school. That is, booster groups and school support organizations are prohibited from promising or providing any compensation to a school employee for performing their duties at a school or school-related activity. This opinion applies to officials and employees of all school districts, educational service centers (ESCs), and community schools operating under Ohio Rev. Code §3314.03.

§1907.16 and 1907.17 - Compensation of (county court) judges  
§2303.03, 2501.16, and 2501.17 - Officers and employees (courts of appeals)  
§1907.20 - Clerks (court of common pleas)  
§1901.11 - Compensation of judges (Municipal Court)  
§1901.31 and 1901.32 - Clerks; deputy clerks; bailiffs (Municipal court)  
§141.04 (A) (3) - Compensation of judges (appellate court judges)

**Libraries:**

§3375.32 - Meeting of boards of library trustees; organization; election of clerk; bond.  
§3375.36 - Treasurer of library (deputy clerk)  
§3375.40 - Powers of boards of library trustees (compensation of employees)

**Municipalities:**

§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:**

§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:**

§339.03 - Board of county hospital trustees; powers and duties  
§339.06 - Compensation - county hospital administrator and employees

**Municipal Hospitals:**

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

Ohio State University [§3335.02(A)], Ohio University [§3337.01(A)], Miami University [§3339.01(A)], Bowling Green and Kent State Universities [§3341.02(E)], Central State University [§3343.05], Cleveland State University [§3344.01(A)], Wright State University [§3352.01(A)], Youngstown State University [§3356.01], University of Akron [§3359.01(A)], University of Toledo [§3364.01(A)], University of Cincinnati [§3361.01(A)], Shawnee State University [§3362.01(A)], Community College Districts [§3354.06], Technical Colleges [§3357.06], State Community Colleges [§3358.03], University Branch Districts [none specified].  
- Compensation of trustees.

**Summary of Requirement:** 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 *Elected Officials' Compensation Appendix* to the OCS.

**POSSIBLE NONCOMPLIANCE RISK FACTORS:**

**Note:** Auditors should consider whether governments have historically demonstrated effective internal controls over payroll. Additionally, adequate training of payroll personnel and supervisory monitoring controls can help mitigate the risk of noncompliance with compensation compliance requirements.

**Sample Questions and Procedures:**

Except for the two requirements described below, 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.

- For community schools, inquire whether its board members also serve on the boards of other community schools. If so, inquire how the community school assures it is not paying these board members for attending concurrent board meetings. (See the requirement described in the footnote above per Ohio Rev. Code §3314.025.)
- Per the footnote above regarding school treasurer compensation, compare total compensation per the payroll register to the amount in the treasurer’s contract. If the register reports compensation exceeding the contract amount, determine if these payments were allowable per the footnote above.

**Government Personnel Interviewed and Dates:**

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

## Part 4: Deposits and Investments

**7-30 Compliance Requirement:** Designating depositories --- Ohio Rev. Code:

*Subdivisions Other Than Counties*

§135.03 - Eligible depositories.

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

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

*Counties*

§135.32 - Eligible depositories.

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

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

*Courts*

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

*Libraries*

§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 Ohio Rev. Code 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>31</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.

<p><b>Government Personnel Interviewed and Dates:</b></p>    
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<sup>31</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.

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

**7-31 Compliance Requirements:** Ohio Rev. Code Sections 135.14(B)(7), 135.142, 135.22, 135.35, 319.04, 321.46 and 733.27 - Education Requirements

**Summary of Requirements:**

**Subdivision Treasurers<sup>32</sup>**

Subdivision treasurers must complete annual continuing education programs provided by the Treasurer of State (TOS). The TOS issues certificates 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 (and confirmable through the TOS searchable database weblink below) 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) approved by the Auditor of State (13 hours) and the Treasurer of State (13 hours) between December 1 and the first Monday in September following that person's election [Ohio Rev. Code §321.46]. For instance, a treasurer elected in November 2008, taking office in 2009, would be required to receive the initial 26 hours of training between December 1, 2008 and September 2009. In this example, the newly-elected treasurer would complete one year in office in September 2010 and would then enter into the biennial cycle for 2011/2012 for continuing education.

After completing one year in office, a county treasurer must take not fewer than 24 hours of continuing education approved by the Auditor of State (12 hours) and the Treasurer of State (12 hours) 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. [Ohio Rev. Code §321.46] The biennial time periods are:

- January 1, 2007 to December 31, 2008
- January 1, 2009 to December 31, 2010
- January 1, 2011 to December 31, 2012

<sup>32</sup> A treasurer of an agricultural society must comply with the continuing education requirements of ORC 135.22. The treasurer meets the definition of "treasurer" in ORC 135.22 (which refers to the definition in ORC 135.01) which is as follows: (M) "Treasurer" means, in the case of the state, the treasurer of state and in the case of any subdivision, the treasurer, or officer exercising the functions of a treasurer, of such subdivision. In the case of a board of trustees of the sinking fund of a municipal corporation, the board of commissioners of the sinking fund of a school district, or a board of directors or trustees of any union or joint institution or enterprise of two or more subdivisions not having a treasurer, such term means such board of trustees of the sinking fund, board of commissioners of the sinking fund, or board of directors or trustees. The Supreme Court of Ohio determined that an agricultural society is a political subdivision in *Greene Cty. Agricultural Soc. v. Liming* (2000), 89 Ohio St.3d 551.

Auditors should wait until the expiration of the applicable biennial time period to determine whether *existing treasurers* (as opposed to those *newly-elected*) have completed the continuing education requirements.

A treasurer who fails to complete the **initial** education programs required by §321.46 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 §321.46 is restricted to investing in STAR Ohio, no-load money market mutual funds pursuant to §135.14(B)(5) and § 135.35(A)(5), or in certificates of deposit pursuant to Ohio Rev. Code §135.35(A)(6), or savings or deposit accounts pursuant to Ohio Rev. Code §135.35(A)(6). 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 Fiscal Officers**

Must attend annual training programs for new village fiscal officer *and* annual continuing education programs provided by the Auditor of State [Ohio Rev. Code §733.27]. (The Auditor of State interprets this section as requiring a newly-elected fiscal officer to attend the new fiscal officer'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 fiscal officers 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 completed additional training for making those investments. The type and amount of additional training shall be approved by the Auditor of State:

- School treasurer [135.142(B)]
- County investing treasurer<sup>33</sup> [135.35(A)(8)]
- For other local governments: Treasurer or governing board [135.14(B)(7)]

### **TOS CPIM Confirmation and FAQ's**

The Treasurer of State's website includes an online searchable CPIM report database<sup>34</sup> of treasurers receiving TOS-approved certifications and exemptions. The link to this website is: [http://stateofohio-web.ungerboeck.com/ceu/ceu\\_lookup.aspx](http://stateofohio-web.ungerboeck.com/ceu/ceu_lookup.aspx). However, the TOS website does not include CPIM for AOS-approved courses for county treasurers. Auditors should refer to the Continuing Education Hours Report under *County Treasurers* box on the AOS website at <http://www.auditor.state.oh.us/LGS/Default.htm> to obtain a listing of AOS-approved CPIM received by county treasurers.

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<sup>33</sup> Ohio Rev. Code §135.35(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 Ohio Rev. Code §135.34.

<sup>34</sup> Note: The reliability of the TOS online CPIM search results may be affected by the accuracy of information entered into the database. Therefore, auditors may still need to inquire with local treasurers regarding CPIM certifications if discrepancies are identified using the online database.

Auditors can also refer to AOS/TOS Frequently Asked Questions (FAQ's) regarding training requirements for county and local subdivision treasurers on our website listed as *Training Requirements for County Treasurers* or as *Training Requirements for Treasurers of Subdivisions* at: <http://www.auditor.state.oh.us/conferences/default.htm>.

**Sample Questions and Procedures:**

For counties, please show me your certificates of completion for the last biennial period. (*Note: For efficiencies, auditors may be able to obtain these certifications using the weblink above for the Treasurer of State and the Auditor of State*).

For other subdivisions, please show me your annual certificates of completion. (*Note: For efficiencies, auditors may be able to obtain these certifications using the weblink above for the Treasurer of State and the Auditor of State*).

**Government Personnel Interviewed and Dates:****Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):**

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

### 7-32 Compliance Requirements and Summaries Thereof:

Ohio Rev. Code §102.03 - Restrictions and prohibitions.

- This section restricts the conduct of public officials and employees with respect to their official positions. Per Ohio Rev. Code §3314.03(A)(11)(e), as amended by HB 530 of the 125<sup>th</sup> General Assembly, effective Ohio Rev. Code §102 applies to community schools. HB 530 eliminated the two exceptions that were previously permitted under this section; however, it retains the general requirement for community schools to comply with the Ethics<sup>35</sup> Law. Therefore, effective for fiscal year 2007 audits and later, members of a community school's governing authority cannot be employed by the school or, except in specified circumstances, have an interest in *any* contract awarded by the governing authority.
- 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 Ohio Rev. Code §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. [Ohio Rev. Code §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. [Ohio Rev. Code §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. [Ohio Rev. Code §102.3E)]

### Ohio Rev. Code sections governing interests in contracts by elected officials

- **Ohio Rev. Code §305.27** Prohibits county commissioners from having an interest in a county contract.
- **Ohio Rev. Code §511.13** Prohibits any member, officer or employee of a board of township trustees from having an interest in any contract the trustees approve.

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<sup>35</sup> All potential "consequential" ethics law violations are to be submitted to the Auditor of State Legal Division. After review, the Auditor of State Legal Division will make appropriate referrals. The Audit Division should consult with the Legal Division in determining how or if to report this matter. IPA's should consult with the Quality Assurance Division.

- **Ohio Rev. Code §731.02** Prohibits members of a city legislative authority from having an interest in any contract with the city.
- **Ohio Rev. Code §731.12** Prohibits members of a village legislative authority from having an interest in any contract with the village.

**Ohio Rev. Code §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 Ohio Rev. Code §3313.33(C). You should refer to the statute for details of the exceptions.

**Ohio Rev. Code §2921.42** - Having an unlawful interest in a public contract.

This section prohibits such interests. Ohio Rev. Code §3314.03(A)(11)(e) requires community schools to comply with Ohio's Ethics Law, which, among other things, requires public officials to disclose conflicts of interest and prohibits them from having an interest in a contract awarded by their public office. Effective March 30, 2006, members of a community school's governing authority cannot be employed by the community school or, except in specified circumstances, have an interest in *any* contract awarded by the governing authority<sup>36</sup>.

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

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

Ohio Rev. Code §**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 §**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 prohibited from holding another public position.

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

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<sup>36</sup> It is permissible for a public official to have an interest in a public contract if (1) the contract covers necessary services or supplies for the official's public office, (2) the services or supplies cannot be obtained elsewhere for the same or lower cost or are being furnished to the public office as part of an ongoing relationship that started prior to the official's involvement with the office, (3) the treatment given to the public office is either preferential to or the same as the treatment given to other clients, and (4) the public office is aware of the official's interest in the contract and the official does not participate in any deliberations regarding the contract [Ohio Rev. Code §2921.42(C)].

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]<sup>37</sup>.
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 purchased 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?

**Government Personnel Interviewed and Dates:**

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

<sup>37</sup> Auditors and IPAs should not contact the Ethics Commission. If evidence comes to your attention concerning possible ethics violations, IPAs and AOS staff should follow this guidance from the Ohio Compliance Supplement Introduction:

Ethics Commission Referrals  
All potential "consequential" ethics law violations are to be submitted to the Auditor of State Legal Division. After review, the Auditor of State Legal Division will make appropriate referrals. The Audit Division should consult with the Legal Division in determining how or if to report this matter. IPA's should consult with the Quality Assurance Division.

## Part 6: Prohibited Political Activity

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

Ohio Rev. Code §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 §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 §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 §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 §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:

1. 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.
2. Inquire if the CFO is aware of any possible violations. If so, or if other evidence comes to your attention suggestion violations may have occurred, investigate the allegations as needed.

**Government Personnel Interviewed and Dates:**

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

## Part 7: Public Officials' Bonding Requirements

### 7-34 Compliance Requirement:

#### **General**

Ohio Rev. Code §3.06 - Unless other statutes prescribe a bond for a particular officials (such as for the officials listed in OCS Bonding Appendix), Ohio Rev. Code §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.

Ohio Rev. Code §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 §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 (all universities listed below require Attorney General approval of their bonds unless otherwise indicated):**

Ohio State University [§3335.05], Ohio University [none specified], Miami University [none specified], Bowling Green and Kent State Universities [§3341.03], Central State University [§3343.08], Cleveland State University [§3344.02], Wright State University [§3352.02], Youngstown State University [§3356.02], University of Akron [§3359.02], University of Toledo [§3364.02, which does not require Attorney General approval, effective July 1, 2006], University of Cincinnati [§3361.02], Shawnee State University [§3362.02, which does not require Attorney General approval, effective September 29, 2005], Community College Districts [none specified], Technical Colleges [none specified], State Community Colleges [§3358.06], University Branch Districts [§3355.051].

These compliance requirements apply to all state universities except Ohio and Miami Universities and the Medical College of Ohio at Toledo, and are also not specified for certain other types of institutions. If a deficiency is noted for institutions not listed above, treat it as a potential management comment rather than a noncompliance finding.

#### **Community Schools**

Ohio Rev. Code §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 §3314.011. The governing authority prescribes the bond amount and surety by resolution.

**Summary of Requirement:** These sections provide requirements for bonding certain public officials and employees.

**Sample Questions and Procedures** [See the *OCS Bonding Appendix* for details of requirements applicable to county, city, township, school, and library officials.]:

1. How do you determine who is required to be bonded?
2. Do you have blanket bonds on officials or employees? How do you determine whether employees are eligible for such blanket bonding?
3. 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.
4. Please show me a few representative bonds.

<b>Government Personnel Interviewed and Dates:</b>
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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</b>
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## Part 8: Other Special Entity Requirements

### Section A: County Requirements

**7-35 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 §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 *Ohio Compliance Supplement FOJ Appendix*. 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**<sup>38</sup> as discussed further in the appendix. For years in which use of the audit programs is not used, 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>
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<sup>38</sup> Unless you have identified elevated risks, you can continue to limit tests of Steps 7-35 (Furtherance of justice allowance) to once every three years.

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

**7-36 Compliance Requirement:** Ohio Rev. Code §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 *Ohio Compliance Supplement FOJ Appendix*. 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**<sup>39</sup> 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**.

<b>Government Personnel Interviewed and Dates:</b>
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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</b>
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<sup>39</sup> Unless you have identified elevated risks, you can continue to limit tests of Steps 7-36 (Sheriff's transportation of prisoners) to once every three years.

*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

**7-37 Compliance Requirements:** Ohio Rev. Code Sections 343.01, 3734.52, 3734.55, 3734.56, 3734.57(B), 3734.573 and 3734.57(G) – Expenditures by solid waste management districts.

**Summary of Requirement:** Ohio Rev. Code Sections 343.01 and 3734.52 require all counties in Ohio to be a part of a solid waste management district, either individually or jointly as part of a multi-county (joint) solid waste management district. Ohio Rev. Code Sections 3734.55 and 3734.56 require all solid waste management districts to develop and submit solid waste management plans to Ohio EPA for approval. These plans address a variety of issues associated with solid waste management within the jurisdiction, including demonstrating that adequate landfill capacity exists for waste generated within the district and establishment of recycling goals. Once approved by the Ohio EPA, solid waste management districts are required to implement their plans.

Solid waste management districts are authorized to levy certain fees to fund the programs specified in their plans. Ohio Rev. Code Section 3734.57(B) specifies that solid waste management districts can levy fees on the disposal of solid waste in landfills within their boundaries, and Ohio Rev. Code Section 3734.573 specifies that solid waste management districts can levy fees on waste that is generated within their boundaries regardless of where the waste is disposed. Both of these sections require the fee revenue shall be “kept in a separate and distinct fund to the credit of the district.” Ohio Rev. Code Section 3734.57(G) specifies that “moneys arising from the [disposal of generation fees] shall be expended by the board of county commissioners or directors of the district in accordance with the district’s solid waste management plan or amended plan exclusively for the following purposes:” Ohio Rev. Code Section 3734.57(G) then provides ten “allowable uses” for the fee revenue.

Although the board of county commissioners or directors of the district possess considerable discretion in determining how to expend fee revenue in the performance of their duties, these expenditures must be exclusively for an allowable use listed in Ohio Rev. Code Section 3734.57(G).

#### **Sample Questions and Procedures:**

Auditors should use the following sample questions and procedures:

1. Please show me any policies and procedures you have for administering this fund.
2. Please show me supporting documentation that the expenditures from this fund were:
  - Allowable under one of the ten “allowable use” criteria for the fee revenue listed in Ohio Rev. Code Section 3734.57(G); and
  - Allowable in accordance with your policies and procedures.
3. If significant unusual items are noted, auditors should make a referral to Ohio EPA, Division of Solid and Infectious Waste Management, 614-644-3020.

<b>Government Personnel Interviewed and Dates:</b>
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<b>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</b>
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## Section B: Municipality Requirements

### 7-38 Compliance Requirement: Ohio Rev. Code 5727

#### Summary of Requirement: 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). [Ohio Rev. Code §5727.81(A)]

Ohio Rev. Code §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>40</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. [Ohio Rev. Code §5727.82(A)(1) & (A)(3)]

A self-assessing option exists for 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. [Ohio Rev. Code §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. [Ohio Rev. Code §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, §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

<sup>40</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 Ohio Rev. Code §5727.83.

municipality's limits vs. those billed / collected inside the municipality's limits?

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.
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.)
4. Inquire how the auditee determines that no more than one-third of its total sales are outside its limits.
5. Inquire about the municipality's procedures for complying with the record keeping requirements. Read a few electric distribution records to determine compliance.
6. Inquire how the government computes / segregates the tax billed to its residents and transfers the amount to its general fund.

**Government Personnel Interviewed and Dates:**

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

## Section C: School Requirements

### 7-39 Compliance Requirement and Summaries Thereof:

#### Licensing, school districts:

- The state board of education requires treasurers to have licenses. [§3301.074(A)].
- ~~Ohio Rev. Code §3301.074—Licensing of business managers; Ohio Admin. Code §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. [§3301.074(A)].

#### Community school requirements:

- Ohio Rev. Code §3314.011 – Prior to assuming the duties of fiscal officer, the fiscal officer must be licensed under Ohio Rev. Code §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 §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 §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 Rev. 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 Rev. Code §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?
2. Please show me the current licenses for the officials listed above.

<b>Government Personnel Interviewed and Dates:</b>

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

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**7-40 Compliance Requirements:** Ohio Rev. Code §3313.291 - School District Petty Cash Accounts. (Not applicable to community schools.)

**Summary of Requirements:** This section allows 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.

The resolution establishing the petty cash account **MUST**:

- Specify the maximum amount of money placed in the account;
- Designate the authorized district officials who may draw moneys from the account or require the school district treasurer to designate such officials; AND
- Establish procedures for replenishing the account.

**Sample Questions and Procedures:**

**Steps 1 & 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.**

1. Include a copy of the board approved, petty cash account policy and a list of authorized district officials in the permanent file.
2. Scan selected petty cash disbursements and determine whether appropriate documentation exists to support petty cash disbursements. Document your results. You should base the extent of this scanning on the amount of petty cash reimbursements and your assessment of risk related to petty cash accounts. You should apply procedures in addition to scanning if risk warrants it.

**Government Personnel Interviewed and Dates:**

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

**7-41 Compliance Requirement:** Ohio Rev. Code Sections 3314.03(A), ~~3314.082~~ Community School tax status

**Summary of Requirements:**

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

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

Note: ~~Regarding the above, Ohio Rev. Code §3314.082 discourages, but does not prohibit community schools from paying taxes. Based on experience, we believe some community schools cannot practicably avoid paying certain taxes. Therefore *we are omitting this testing requirement* and will not cite community schools for paying taxes.~~

Per our interpretation of Ohio Rev. Code §3314.03(A)(1)(a) and (b), all community schools are organized for a public and charitable purpose. Also, their assets inure to the State of Ohio by statute. Therefore, community schools are automatically exempt from Federal and State income taxes and do not require 501(c)(3) filing status.

**Sample Questions and Procedures:**

1. 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.

**Government Personnel Interviewed and Dates:**

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

(Note: Legislation repealed this law.)

~~(Because this is a new test in the Dec08 OCS, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)~~

**7-41 Compliance Requirement:** Ohio Rev. Code Sections 3701.93, 3701.931, 3701.932 Jarod's Law/School Health Inspections

**Summary of Requirements:**

Ohio Rev. Code §3701.931: ~~Local boards of health shall annually inspect each public and nonpublic school<sup>44</sup> **building** and associated grounds, pursuant to the guidelines established by the Ohio Director of Health, to identify conditions dangerous to public health and safety.~~

~~Pursuant to Ohio Rev. Code §3701.932, each board of health shall report the findings from the inspection of each public and nonpublic school building and associated grounds conducted under §3701.931 of the Rev. Code to all of the following:~~

- ~~➤ The principal or chief administrator of the building;~~
- ~~➤ The administrator responsible for facility operations and maintenance on behalf of the school district, educational service center, board of mental retardation and developmental disabilities, or community school controlling the inspected building and grounds;~~
- ~~➤ In the case of a school operated by a school district, the superintendent and board of education of that district;~~
- ~~➤ In the case of a school operated by an educational service center or board of mental retardation and developmental disabilities, the center or board;~~
- ~~➤ The Auditor of State.~~

~~The inspection report shall include recommendations for changes that the board of health determines may be needed to abate conditions that are hazardous to occupants. R.C. § 117.102 authorizes the Auditor of State to include references to recommendations from these reports in the audit reports of a school district or other entity covered by these requirements.~~

~~Health districts may file their reports electronically with the Auditor of State via email to [JarodsLaw@auditor.state.oh.us](mailto:JarodsLaw@auditor.state.oh.us) or by sending a hard copy to:~~

~~Auditor of State's Office  
Attn: Clerk of the Bureau  
88 E. Broad Street  
P.O. Box 1140  
Columbus, Ohio 43216-1140~~

~~Refer to AOS Bulletin 2006-005 for additional information regarding Jarod's Law.~~

**Sample Questions and Procedures:**

<sup>44</sup> R.C. § 3701.932 does not distinguish between public and non-public schools. However, because the AOS is not responsible for auditing non-public schools—and the provisions of R.C. § 117.102 described above apply only to public schools, no action will be taken with regard to reports of non-public schools and they should not be submitted to the AOS. For the purposes of this requirement, the term “public schools” is defined in R.C. § 3701.93 and encompasses schools (including preschools) operated by school districts, educational service centers, or boards of mental retardation and developmental disabilities, as well as community schools.

1. ~~Inquire for which school buildings and grounds the school district received the health inspection report from the local health department, and for which school building and grounds the school district has not yet received a report.~~
  
2. ~~Scan the health inspection reports for each building and grounds and determine whether there are any matters of significance. We would not expect these matters to have a direct and material effect on the school district's financial statements. However, auditors should evaluate matters of qualitative or quantitative significance for possible inclusion in the audit report or management letter. NOTE: AOS auditors should consult with their regional Accounting and Auditing Support representative if you suspect a matter described in one of these inspection may affect financial reporting / disclosure. We expect these instances to be rare.~~
  
3. ~~Per step 1, if the local health department has not inspected the school district's buildings during the audit period, send an e-mail stating the name(s) of the uninspected buildings to your regional office manager. The regional office manager will include this memo *in the local health department's audit working papers*. Our audit of the Health Department should include inquiries as to the Department's plans for completing these inspections. (This procedure would not apply if the health department has notified the district of upcoming scheduled inspections or has provided other reasonable assurance of completing the inspections.)~~

**Government Personnel Interviewed and Dates:**

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

**New: HB 1, 128<sup>th</sup> GA**  
**Effective: July 17, 2009**

*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

**7-42 Compliance Requirement:** Ohio Rev. Code §3313.642(B) School Fees for Low-Income Students

**Summary of Requirements:**

Effective July 17, 2009, no board of education of a school district shall charge a fee to a pupil who is eligible for a free lunch under the “National School Lunch Act,” 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the “Child Nutrition Act of 1966,” 80 Stat. 885, 42 U.S.C. 1771, as amended, for any materials needed to enable the pupil to participate fully in a course of instruction. The prohibition in this division against charging a fee does not apply to any fee charged for any materials needed to enable a pupil to participate fully in extracurricular activities or in any pupil enrichment program that is not a course of instruction. (Ohio Rev. Code §3313.642(B))

Additional information about school fees for low-income students (i.e., Instructional Fee Waiver Q&A) is available on the Ohio Department of Education’s website at: <http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=523>.

**Sample Questions and Procedures:**

Inspect the school district’s fee schedule.

Determine whether the district charges fees for courses of instruction to pupils eligible for a free lunch under the National School Lunch Act.

**Government Personnel Interviewed and Dates:**

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

**New: HB 19, 128<sup>th</sup> GA**  
**Effective: March 28, 2010**

**7-43 Compliance Requirement:** Ohio Rev. Code §3313.666(A), (B), and (C) and §3314.03(A)(11)(d) Anti-Bullying Provisions<sup>42</sup>

**Summary of Requirements:**

The board of education of each city, local, exempted village, and joint vocational school district and the governing authority of each community (charter) school must adopt a anti-bullying policy in consultation with parents, school employees, school volunteers, students, and community members.

The policy must prohibit the harassment, intimidation, or bullying of any student on school property or at a school-sponsored activity. It also must define the term "harassment, intimidation, or bullying" in a manner that includes the definition prescribed in HB 276. The act defines that term as "an intentional written, verbal, or physical act that a student has exhibited toward another student more than once and the behavior both (1) causes mental or physical harm to the other student, and (2) is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or abusive educational environment for the other student."

Each policy also must include the following additional items (Ohio Rev. Code §3313.666(A), (B), and (C) and §3314.03(A)(11)(d)):

- A procedure for reporting prohibited incidents;
- A requirement that school personnel report prohibited incidents of which they are aware to the school principal or other administrator designated by the principal;
- A requirement that the parents or guardians of a student involved in a prohibited incident be notified and, to the extent permitted by state and federal law governing student privacy, have access to any written reports pertaining to the prohibited incident;
- Procedures for documenting, investigating, and responding to a reported incident;
- A requirement that the district or community school administration provide semiannual written summaries of all reported incidents to the president of the district board of education or community school governing authority, and post them on the district's or school's website (if applicable);
- A strategy for protecting a victim from additional harassment and from retaliation following a report; and
- The disciplinary procedure for a student who is guilty of harassment, intimidation, or bullying.

These items form a framework for districts and community schools to use in developing their policies. The policy must be included in student handbooks and in publications that set forth the standards of conduct for schools and students. Employee training materials must also include information on the policy.

<sup>42</sup> Effective for fiscal year 2011 school audits, HB 19 of the 128<sup>th</sup> General Assembly requires each school district, community (charter) school, and STEM school to incorporate dating violence into its existing policy prohibiting student harassment, intimidation, or bullying.[1] For this purpose, the act explicitly includes violence within a dating relationship as a form of harassment, intimidation, or bullying. In effect, then, the policy would cover dating violence that occurs on school property or at school-sponsored events. The district or school must update its policy within six months after the act's effective date. H.B. 19 was effective on March 28, 2010, accordingly, each board shall update the policy adopted to include violence within a dating relationship by September 28, 2010.

**Auditor of State identification of harassment policy**

**Beginning in fiscal year 2009**, the act **requires** the Auditor of State (or contracting IPAs), when auditing a school district or community school, to identify whether the district or school has adopted an anti-harassment policy. This determination must be recorded in the audit report. The Auditor of State may not prescribe the content or operation of the policy. (R.C. 117.53; §3)

**Sample Questions and Procedures:**

Inspect the anti-bullying policy the school adopted pursuant to Ohio Rev. Code §3313.666(A), (B), and (C) (for school districts) or §3314.03(A)(11)(d) (community schools). ~~If the school has not adopted the policy, report the matter in the management letter. To comply with this reporting obligation, the Auditor of State and contracting independent accountants must include an additional agreed-upon procedures report describing the procedures applied and the results, for audits of fiscal year ended June 30, 2009 and in subsequent audits until full compliance is obtained<sup>43</sup> This report should appear immediately after the schedule of findings or schedule of prior year audit findings, if applicable. The table of contents should separately list this report. (Because this report is a statutory requirement, we believe it is inappropriate to include it with a management letter.)~~

~~Bulletin 2009-010, *School Anti-harassment Policy*, describes the reporting process AOS and IPA’s should use to satisfy these requirements.~~

(Note: This procedure need not be repeated for future audits once we determine the school has ~~adopted a policy fully complied with this requirement.~~)

**Government Personnel Interviewed and Dates:**

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

<sup>43</sup> “Full compliance” includes both compliance with the original anti-bullying laws as described in AOS Bulletin 2009-010 and the HB 19 amendment (128<sup>th</sup> General Assembly) to add violence in a dating relationship to school district anti-bullying policies. Therefore, all fiscal year 2011 school district audits will need to include an Agreed-Upon Procedures report describing the school district’s compliance with the HB 19 amendment. Auditors should consider reminding school district officials about this requirement during their fiscal year 2010 audits.

## Section D: Family and Children First Councils

### 7-44 Compliance Requirement: Ohio Rev. Code §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 Ohio Rev. Code §5153.15;
- (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;~~
- (g) 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;
- (h) 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;
- (i) A representative of the municipal corporation with the largest population in the county;
- (j) The president of the board of county commissioners, or an individual designated by the board;
- (k) A representative of the regional office of the department of youth services;
- (l) A representative of the county's head start agencies, as defined in Ohio Rev. Code §3301.31;
- (m) 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";
- (n) 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.

**Government Personnel Interviewed and Dates:**

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

**7-45 Compliance Requirement:** Ohio Rev. Code §121.37(B)(5)(a) - 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 Ohio Rev. Code §5153.15; 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>44</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 7-5 through 7-7, regarding daily deposit of funds, public meetings, and public records, respectively; Compliance Supplement Requirement 7-24 regarding withholding federal, state and local taxes; Compliance Supplement Requirement 7-25 regarding employee retirement system withholdings; and Compliance Supplement Requirement 7-32 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.

**Sample Questions and Procedures:**

1. Who is your administrative agent?
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.
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

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<sup>44</sup> Ohio Rev. Code §121.37 (B)(5)(a) 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.

Board's resolution and a list of Executive Committee members.

4. Use the guidance in the applicable sections to test compliance related to the Sections listed under "miscellaneous" above.

**Government Personnel Interviewed and Dates:**

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

**7-46 Compliance Requirement:** Ohio Rev. Code Chapter 1347 – Storage, Use and Distribution of Personal Information

**Summary of Requirements:** State and local government agencies are entrusted with the duty of collecting sensitive and private information, and auditors must make sure the necessary processes and procedures are in place to safeguard the personal data citizens entrust to them.

**Ohio Rev. Code Chapter 1347** contains legal requirements related to personal information systems which are applicable to *all state and local agencies* and defines the terms and uses of this information. Specific excerpts from these requirements are highlighted below.

**1347.01 Personal information systems definitions.**

(E) “Personal information” means any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.

**1347.05 Duties of state and local agencies maintaining personal information systems.**

Every state or local agency that maintains a personal information system shall: (info paraphrased)

- (A) Appoint one individual to be directly responsible for the system;
- (B) Adopt and implement rules that provide for the operation of the system;
- (C) Inform each of its responsible employees of all rules adopted in accordance with this section;
- (D) Specify disciplinary measures for unauthorized use of information contained in the system;
- (E) Inform a person supplying personal information if it is legally required, or if they may refuse;
- (F) Develop procedures for purposes of monitoring the accuracy, relevance, timeliness, and completeness of the personal information in this system;
- (G) Take reasonable precautions to protect personal information in the system from unauthorized modification, destruction, use, or disclosure;
- (H) Collect, maintain, and use only personal information that is necessary and relevant to the functions that the agency is required or authorized to perform, and eliminate personal information from the system when it is no longer necessary and relevant to those functions.

**1347.07 Using personal information.**

A state or local agency shall only use the personal information in a personal information system in a manner that is consistent with the purposes of the system.

**Sample Questions and Procedures:**

Inquire of the client’s officials as to the types of personal information the entity uses and/or maintains. Specifically determine:

- What personal information is used and/or maintained in their routine day-to-day operations.

- What infrequent activities are performed related to personal information.

Inquire if the agency has a written policy that governs when personal information may be accessed. Determine if the policy includes information requested from outside the entity and whether it addresses access to personal information from inside the entity. Determine if the policy includes valid reasons for which employees may access personal information.

Inquire with the client to identify any laws or provisions that govern the storage, use, and distribution of personal information, including Ohio Revised Code, Ohio Administrative Code, federal regulations, etc.

Ask the following questions and observe/obtain relevant documentation to support all answers:

1. If a policy is in place, who monitors it? How is monitoring documented?
2. How does the agency store and protect personal information?
3. What types of access controls are in place (both computer and manual) to ensure that personal information is only used for its intended purpose?
4. Who has access to personal information?
5. Is the appropriate level of access reviewed regularly?
6. How often is personal information accessed outside of the routine operations of business?
7. Who decides when it is appropriate to access personal information outside of the routine operations of business?
8. Is there approval of the access required?
9. Are logs or other documentation maintained to show who accessed the information and whose information was accessed?
10. What are the consequences for accessing personal information outside of the routine operations of business, if permission has not been given?
11. Do you know of any complaints or inquiries that have occurred during the year concerning access to personal information?
12. Do you know if any improper access to personal information has occurred during the year from within the entity? If so, was the person whose information was accessed notified?

**Government Personnel Interviewed and Dates:**

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

<b><u>Am. ORC 117.13</u></b> <b><u>Effective 10/16/09</u></b>
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*(Because this is a new test, the Auditor of State requires testing of this requirement during the first year; however, auditors may apply the guidance for rotating or omitting Chapter 7 compliance tests to this requirement during subsequent periods.)*

**7-47 Compliance Requirement:** Ohio Rev. Code 117.13(C)(3) – Allocating Audit Costs

**Summary of Requirements:** Local governments can charge audit costs to funds other than the general fund only if the charges are properly allocated to those funds.

**Ohio Rev. Code 117.13(C)(3)** states the fiscal officer may distribute such total cost of the audit to each fund audited in accordance with its percentage of the total cost.

**Auditor of State Bulletin 2009-011** includes the following guidance for allocating audit costs to funds:

The fiscal officer should determine which funds should be charged a percentage of the audit costs. The Auditor of State is of the opinion that most operating funds of a local government, including utility funds (i.e., water, sewer, electric, refuse), special levy funds, funds that receive gas taxes, and motor vehicle registration fees can be charged a portion of the audit costs.

Other funds of a local government that may be charged a percentage of the audit costs include bond and grant funds. The ability to charge bond funds will depend on the allowable uses defined in the bond legislation. Trust and other funds that receive donations restricted to specific purposes will require analysis by the fiscal officer of the restrictions imposed by the donor and/or trust agreement to determine if any audit costs may be charged to those funds. Agency funds, because of their custodial nature, should not be charged for any share of the cost of an audit for the fiscal officer's role as the fiscal agent.

In determining a percentage of total cost that may be charged to a fund, any reasonable and rational method such as a percentage of the fund's revenue or expenditures compared to the total revenue or expenditures for all funds, excluding agency funds, would be acceptable. A local government's indirect cost allocation plan may also be an acceptable method for allocating audit costs.

For grant funds, the costs of audits are allowable if the audits were performed in accordance with the Single Audit Act, and Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or sub-recipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs. Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award or included as an indirect cost in a cost allocation plan or rate.

**Sample Questions and Procedures:**

Does the government charge funds other than the general fund for audit costs? If so, please show me documentation supporting how the government determines a reasonable basis for allocating

audit costs to funds other than the general fund.

Does the government allocate audit costs to grant funds? If so, please show me documentation supporting the government received a Single Audit and allocated the audit costs to grant funds in accordance with Federal guidelines.

**Government Personnel Interviewed and Dates:**

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