

CHAPTER 3 STEWARDSHIP

Citizens and public officials want and need to know whether governments are handling their funds properly and complying with laws and regulations. Public officials entrusted with public resources are responsible for complying with those laws and regulations. The laws and regulations in this chapter have stewardship considerations that we have deemed significant and therefore require compliance testing.

Important:

1. ***If you are auditing an entity with Furtherance of Justice (FOJ) and/or Law Enforcement Trust (LET) funds there are procedures in this chapter that should be performed every year.*** Except for the FOJ and LET yearly procedures, you can **generally** rotate substantive compliance testing in this Chapter. For example, there are 17 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 2012 and 2013 audit and found them to be compliant, you normally can omit this test for the 2014 and 2015 audit.
 - ii. This also applies if AUP were performed in the prior year(s). Auditors should select about half of the applicable steps for testing for the audit. Because of the lesser significance of most Chapter 3 requirements, we require no risk assessment or other documentation supporting the steps selected for testing. (Except auditors should apply b. and c. below.)
 - 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. Unlike Single Audit requirements, we do not require you to test controls. You should select the most efficient audit strategy that results in sufficient evidence.
 - b. Some of the requirements in this chapter are more likely to be subject to formal controls than are others.
 - c. 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-C 330.13 -- .14.
 - d. 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-C 330.14(a), 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. If existing control tests or substantive compliance tests satisfy these objectives, the auditor should cross-reference this work to these sections.

<u>Compliance Requirements</u>	<u>Page</u>
<i>General</i>	
3-1 Ohio Rev. Code § 9.38: Deposits of public money	4
3-2 Ohio Rev. Code § 121.22: Meeting of public bodies to be open, exceptions, and notice	6
3-3 Various ORC sections: Appointments, compensation, contracts etc	9
3-4 Ohio Rev. Code § 9.03, 124.57, 124.59, 124.61, 3315.07 (C): Political activities prohibited	12
3-5 Various ORC Sections: Bonding requirements	14
<i>Community Schools</i>	
3-6 Ohio Rev. Code § 3314.08(G): Foundation Anticipation Notes	16
<i>Commissaries</i>	
3-7 Ohio Rev. Code § 307.93(F), 341.25, 753.22, and 2301.57: Establishment and accounting treatment for commissaries	17
<i>Courts</i>	
3-8 Ohio Rev. Code § 2335.34 - .35: Unclaimed costs and fees (court of common pleas and probate court)	18
3-9 Ohio Rev. Code § 1907.20: Records required of county courts	19
3-10 Ohio Rev. Code § 1901.31: Municipal court records	20
3-11 Ohio Rev. Code § 1905.21 and 733.40: Records required and disposition of receipts for mayors’ courts.....	21
3-12 Various ORC Sections: Collection, custody and disbursement of fees, fines etc.....	22
3-13 Ohio Rev. Code § 2743.70, 2949.091: Additional court costs	26
<i>Counties and County Hospitals</i>	
3-14 Ohio Rev. Code § 319.04: Training and continuing education requirements for county auditors	27
3-15(a) Ohio Rev. Code § 325.071, 325.12, 325.13: Furtherance of justice allowance audit program.....	28
3-15(b) Ohio Rev. Code § 2925.03, 2929.18, 2925.42: Law Enforcement trust fund audit program	31

Townships

3-16	Ohio Rev. Code § 505.60, 505.601, OAG Op. 2005-038, and AOS Bulletin 2009-003: Reimbursement of insurance premiums – Townships	34
3-17	Ohio Rev. Code § 505.603 - “Cafeteria Plans” – Townships	37

GENERAL

3-1 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.

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

3-2 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 solely to consider any of the following matters [Ohio Rev. Code §121.22(G)(8):

- (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) Conferring 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.
- (7) In the case of a county hospital operated pursuant to Ohio Rev. Code Chapter 339, a joint township hospital operated pursuant to Ohio Rev. Code Chapter 513, or a municipal hospital operated pursuant to Ohio Rev. Code Chapter 749, to consider trade secrets, as defined in Ohio Rev. Code § 1333.61.
- (8) Confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:
 - 1 The information is directly related to a request for economic development assistance that is to be provided or administered under any provision of Ohio Rev. Code Chapters 715, 725, 1724, or 1728 or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

2. A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

Veterans' Service Commissions also may meet in executive session for the following purposes [Ohio Rev. Code § 121.22(J)]:

- (a) Interviewing an applicant for financial assistance under Ohio Rev. Code § 5901.01 to 5901.15;
- (b) Discussing applications, statements, and other documents described in division (B) of Ohio Rev. Code § 5901.09;
- (c) Reviewing matters relating to an applicant's request for financial assistance under Ohio Rev. Code § 5901.01 to 5901.15.

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 Opinion 2007-019

1. Neither the Ohio Revised 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.

Note: Per OAG Opinion 2014-005 and Auditor of State bulletin 2014-004

State and local governments may contract with private companies to organize and conduct telephone town hall meetings.

- Entities should have policies and procedures governing the expenditure of public funds for telephone town hall meetings and the hiring of private companies to organize and conduct telephone town hall meetings;
- As with traditional town hall meetings, public offices should keep:
 - An agenda which formally documents the proposed topics and invitees at each telephone town hall meeting;
 - Evidence of the topics covered, such as minutes;
 - A document retention schedule for public records used during telephone town hall meetings.
- If your public office uses restricted dollars to organize a telephone town hall meeting, the proposed subject of the meeting must relate to the restricted fund's purpose. For example, a meeting to discuss water utility rates should not be billed to the road and bridge fund.
- Reasonable notice must be given to the general public that a public meeting is taking place. The Attorney General correctly notes the strong tradition of citizens exercising their free speech rights to elected officials. Without reasonable notice, Ohioans will lack that opportunity. Notice should include when the meeting is taking place, the proposed topic, and how the public may join. For the purposes of meeting "safe harbor" under this bulletin, the official or officials calling the

meeting shall give at least twenty-four hours' advance notice to the news media that have requested notification of the time, place, and purpose of the 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.

Note: If telephone "tele" town hall meetings were held test the above listed documentation per Auditor of State bulletin 2014-004.

<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</p>
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Only test the compliance attributes listed in 3-3 below if one of the officials listed below were selected as part of your sample for payroll testing.

3-3 Compliance Requirements: Ohio Rev. Code:

Schools:

§3311.19 and 3313.12 - School board compensation and mileage
 §3314.02(E)(4) - Compensation of School Board¹
 §3313.24 - Compensation of School Treasurer²
 §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
 §3319.0810 - Contracts for transportation staff
 §2921.43(A)(1) and Ohio Ethics Commission Op. No. 2008-01 – Compensation of school employees by outside organizations³

Courts:

§141.04 and 141.05 - Compensation of judges (court of common pleas, including probate court judges)
 §2151.13 - Employees; compensation (courts).
 §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)

¹ Under Ohio Rev. Code §3314.02(E)(4), start-up school governing authorities to provide by resolution for compensation of their members, provided that an individual is compensated no more than \$425 per meeting or a total of \$5,000 per year for all of the governing authorities on which the individual serves. The maximum number of governing authorities of start-up community schools on which a person can serve at the same time is five (Ohio Rev. Code § 3314.02(E)(2)). A new start-up school means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

² 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 reasonable. In order to be reasonable it must be authorized or not prohibited under State or local laws or regulations. ~~(OMB Super Circular §200.404)~~. 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.

³ 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.

§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, 325.08; recorder, 325.09; 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)⁴ (see also compliance requirement **1-29**), 505.60 (insurance - also see compliance requirement **3-16**), 507.09 (clerk)⁵ - 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).

NOTE: IRS Notice 2013-54 and Department of Labor Technical Release 2013-03 states that employers may only reimburse employees’ premiums for non-employer sponsored health care with post-tax dollars (i.e. employers must withhold taxes prior to making reimbursement). However, these reimbursements will not be used in computing allowable “gross salary” as prescribed in Ohio Rev. Code §505.24 and §505.09.

County Hospitals:

§339.03 - Board of county hospital trustees; powers and duties
§339.06 – Powers and duties of board of county hospital trustees

⁴ Each salaried township trustee shall certify the percentage of time spent working on matters to be paid from the township general fund and from other township funds in such proportions as the kinds of services performed. A noncompliance citation would be issued instead of a Finding for Adjustment if the Township has reasonable supporting documentation (such as detailed time and effort records, timesheets, etc.). In addition, the certification should be signed retroactively and attached to the time and effort records. Refer to AOS Bulletin 2011-007 and 2013-002 for examples and further guidance.

⁵ A township fiscal officer may be compensated from the township general fund or from other township funds based on the proportion of time the township fiscal officer spends providing services related to each fund. A township fiscal officer must document the amount of time the township fiscal officer spends providing services related to each fund by certification specifying the percentage of time spent working on matters to be paid from the township general fund or from other township funds in such proportions as the kinds of services performed. Refer to AOS Bulletin 2011-007 and 2013-002 for examples and further guidance.

Municipal Hospitals:

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

Universities:

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(B)], 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 Exhibit 4* in the OCS Implementation Guide.

POSSIBLE NONCOMPLIANCE RISK FACTORS:

<p>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.</p>

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~~ If officials were included in your payroll test, agree their pay rate to OCS Compensation Exhibit amounts. Officials who have a salary set by statute, cannot receive PERS pick up if the additional compensation (in the form of PERS pickup) would result in receiving total compensation greater than the statutory limit. Therefore, we should calculate salary plus PERS pickup, if applicable, and compare this total compensation to the statutory limit. Compensation amounts exceeding the statutory limit should be findings for recovery if they meet the threshold guidelines.

- 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 more than the statutory limit. (See the requirement described in the footnote above per Ohio Rev. Code §3314.02(E)(4).)
- Per the footnote 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.

<p>Conclusion: (effects on the audit opinions and/or footnote disclosures, significant deficiencies/material weaknesses, and management letter comments):</p>
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3-4 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 § 340.03(A)(7) 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 suggesting violations may have occurred, investigate the allegations as needed.

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

3-5 Compliance Requirement:**General**

Ohio Rev. Code §3.06 - Unless other statutes prescribe a bond for particular officials (such as for the officials listed in OCS Bonding Exhibit 2 of the OCS Implementation Guide), 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 *OCS Implementation Guide Exhibit 2 – Public Officers’ Bond* 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 Ohio Admin. Code § 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 Implementation Guide Exhibit 2 – Public Officers’ Bond* 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.

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

3-6 Compliance Requirement: Ohio Rev. Code §3314.08(G) Foundation anticipation notes.

Summary of Requirement: A community school may borrow money to pay any necessary and actual expenses in anticipation of State Foundation receipts. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the school may lawfully expend the anticipated foundation receipts. [Ohio Rev. Code § 3314.08(G)(1)(a)]

A community school cannot issue debt secured by taxes. [Ohio Rev. Code §3314.08(E)]

A school may also borrow money for a term not to exceed fifteen years to acquire facilities. [Ohio Rev. Code §3314.08(G)(1)(b)]

Sample Questions and Procedures:

By reading the minutes, inspecting receipts journals, and by inquiry determine whether or not the School issued any type of debt.

Examine disbursements made of the proceeds to determine that they were used only for the purposes described in the debt agreement.

~~Determine that moneys borrowed to acquire facilities are for a term of fifteen years or less, and were not collateralized by taxes.~~

~~Determine that moneys borrowed to acquire facilities are for a term of fifteen years or less.~~

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

3-7 Compliance Requirement: Ohio Rev. Code § 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 included in **Auditor of State Bulletin 97-011**⁶. 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. Read the commissary funds rules and regulations to determine if they are consistent with AOS Bulletin 97-011.
2. 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.

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

⁶ AOS Bulletin 97-011 permits correctional facilities to issue a check to an inmate for the balance of the inmate's commissary account. Contrary to AOS Bulletin 97-011, Ohio Rev. Code § 341.25 also permits profits from the commissary fund to be used to pay salary and benefits for employees of the sheriff who work in or are employed for the purpose of providing service to the commissary. Therefore, auditors should consider these items to be allowable costs of the Commissary Fund. 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.

COURTS

3-8 Compliance Requirement: Ohio Rev. Code §2335.34 - Lists of unclaimed costs. Ohio Rev. Code §2335.34-35 - Disposition of unclaimed fees and costs.

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

- common pleas court clerk (or clerks from divisions of a common pleas court, such as a juvenile court clerk, domestic relations court clerk, etc.)
- 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. One list is required to be posted in his/her office and the other list shall be posted at a public area of the courthouse or published on the web site of the court or officer, on the second Monday of January. Both lists must be posted for a period of 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.

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?

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

3-9 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.

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?

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

3-10 Compliance Requirement: §1901.31---.Ohio Rev. Code- Municipal court records.

Summary of Requirement: Municipal court clerks must maintain a general index and a docket. [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.

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?

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

3-11 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. [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.

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.

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

3-12 Compliance Requirements: The following is a list of courts and of the related statutory provisions (all references are to the Ohio Revised Code Section) for the collection, custody, and disbursement of fees, fines, costs, and deposits.

2746.01	All courts of record (primarily in civil cases)
2746.02	All courts of record (in criminal and juvenile cases and some civil actions related to criminal cases)
2746.03	Supreme Court, courts of appeals, Court of Claims (in addition to the charges applicable in all courts of record)
2746.04	Courts of common pleas (in certain civil cases, in addition to the charges applicable in all courts of record)
2746.05	Juvenile courts (in addition to the charges applicable in all courts of record and the courts of common pleas)
2746.06	Probate courts (in addition to the charges applicable in all courts of record and the courts of common pleas, subject to any waiver of fees for combat zone casualties under Ohio Rev. Code § 2101.164 and any reduction of fees that Ohio Rev. Code § 2101.20 allows the judge to make)
2746.07	Municipal courts (in addition to the charges applicable in all courts of record and the courts of common pleas)
2746.08	County courts (in addition to the charges applicable in all courts of record and the courts of common pleas)

Municipal Court

1901.14	Powers of judge; fees; rules; annual reports
1901.26	Costs for operation of the court and special projects ⁷
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 ⁸
4511.193	Fee for indigent alcohol treatment fund

County Court

1907.20	Clerk of county court, powers and duties
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⁷ Ohio Rev. Code § 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 Ohio Rev. Code § 311.17 and 509.11 5. The act provides that no fee in the schedule may be higher than the fee specified in Ohio Rev. Code § 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.

⁸ Per Ohio Rev. Code § 733.40, distribution of the 15% referenced in 2949.094(A) depends on whether, it was a moving violation based on a statute or an ordinance. If the fine was collected based on violation of a statute then the money goes into the County Treasury; if the fine was collected based on a violation of a municipal ordinance, then the 15% goes into the municipal treasury.

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
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	Computerizing court or paying cost of computerized legal research *
2303.22	Costs and fees taxed upon writs
2335.35	Disposition of unclaimed fees and costs
2335.37	Payment of certain costs to county treasury
2335.241	Interest on certificates of judgment; computerization of court/ clerk's office (Note: 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	Surcharge for Bail for offenses other than traffic offenses or moving violations
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 § 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.

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., Ohio Rev. Code § 2937.22 now imposes a \$25 surcharge when posting bail for violations, except non-moving traffic offenses) *(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 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.

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

3-13 Compliance Requirement: Ohio Rev. Code § 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.

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.)*

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

COUNTIES AND COUNTY HOSPITALS

3-14 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. Review the County Auditor Association’s statement documenting attendance or confirm by reviewing the County Auditor Continuing Education Status Report located at: <https://ohioauditor.gov/references/confirmations/hours.html>.
2. Determine if the Auditor obtained sufficient CPE.

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

3-15(a) Furtherance of Justice (FOJ)

Per Ohio Rev. Code § 325.071 the sheriff's annual FOJ appropriation equals ½ of the Sheriff's salary. Ohio Rev. Code § 325.06(A) and 325.18(C) prescribe sheriffs' salaries. Note that the additional 1/8 salary paid to sheriffs per Ohio Rev. Code § 325.06(B) is **not** includable in the FOJ calculation.

Per Ohio Rev. Code §325.12, the prosecutor's annual FOJ appropriation equals ½ of the prosecutor's salary. This appropriation is to cover expenses incurred in performing the prosecutor's official duties and in the furtherance of justice.

The statutes require the sheriff and the prosecutor to file with the county auditor by the first Monday in January a full accounting of the expenditure of all funds from the FOJ account for the previous year. The statute requires the redeposit of any remaining funds, including cash held by officers, to the county treasury.

Sample Questions and Procedures (To be performed every year):

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 program below.

FOJ Audit Program (To be performed every three years):

Auditors auditing counties should use this audit program to test FOJ accounts. Auditors should develop a schedule for performing tests of compliance over these accounts on a rotational basis, with the audit programs being applied at least every third year. You should occasionally test these requirements every other year so the auditee cannot predict the year we will test this. We should not disclose our schedule to the auditee. However, if problems were noted with one of the funds in the previous year, apply the audit programs annually until the problems have been corrected (for example, the audit program procedures should be applied if significant expenditures were noted in the previous year which were not supported by appropriate documentation or were not for a proper public purpose).

Audit Program Steps:

1. Determine whether the sheriff and prosecutor filed a full accounting of expenditures of all funds from the FOJ account with the County Auditor by the first Monday in January as required by Ohio Rev. Code § 325.071 and 325.12(E).
2. Examine the county's computation of amounts payable from the general fund to the FOJ account per Ohio Rev. Code § 325.071 & 325.12. Compare the computation to actual payments. Investigate any differences and determine whether the prosecutor received approval from the court of common pleas under Ohio Rev. Code § 325.13 to allocate any additional funds to the FOJ account.

3. Per AOS Bulletin 97-014, any amounts paid to the FOJ fund in excess of the statutory limits described above will result in a finding for adjustment against the FOJ fund.
4. Determine whether a written internal control policy exists for administering and expending funds in the FOJ account. Compare the county's internal control policies to the guidance provided in AOS Bulletin 1981-007 for consistency (available in the AOS Briefcase). Lack of a clear, written policy should be communicated to the audit committee and/or management officials of the County.
5. Does the policy establish clear internal controls regarding the distribution of the funds? If so:
 - Do officers receiving cash sign a form or prenumbered, duplicate receipt for all money received?
 - Does the officer providing the cash also sign a form acknowledging the disbursement of cash?
 - Obviously the department should not obtain receipts for payments to informants. However, do officers submit vendor invoices, cash register slips or other documentation to support other uses of funds (similar to an imprest petty cash fund)?
 - Are officers required to keep an Agent Expense Report or similar paperwork?
 - What does the policy state an officer should do when a receipt cannot be obtained? Examine evidence supporting whether or not officers comply with the policy.
 - Does the policy require affidavits when officers pay cash to informants and for other confidential purposes?
6. Obtain the county's reconciliation of bank balances to the activity in the FOJ account cash book.
 - Foot the reconciliation.
 - Agree the bank balance per the reconciliation to the bank account statement balance.
 - Scan reconciling items for reasonableness.
 - Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank.
 - Agree the book balance per the reconciliation to the FOJ account balance.
 - Trace payment of the remaining year end FOJ balance to a receipt / revenue into the county treasury, as Ohio Rev. Code § 325.071 (sheriff) and 325.12(E) (prosecutors) requires.
7. Obtain the check register and review the payees* for reasonableness of the expenditure. If there are checks written to the Sheriff or other high ranking officials, include these disbursements in the test that step 8 describes.

*Due to the 21st Century Check Act, there are instances in which the bank is no longer able to return an original paper check or a photocopy of an original paper check. Instead, the bank is able to provide you with only a "display history" of a withdrawal from your checking account. Information on a bank's "display history" typically includes, but is not limited to, the number of the account upon which the check is drawn, routing information, the person or entity to whom the check was made payable, the purpose for which the money was paid, and the amount paid to the person or entity. Because a bank's "display history" of a withdrawal from a checking account sets forth the same information that appears on an original paper check or a photocopy of an original paper check, such a "display history," like an original paper check or photocopy of an original paper check, may provide a reasonable and reliable means by which a county prosecuting attorney can accurately account for a disbursement from his furtherance of justice allowance. [AG Opinion 2005-035] Also see AOS Bulletin 2004-010.

8. Select a representative group of disbursements from the year end FOJ report, listing the check number, date, amount, and payee, and determine that:
- amount per the report agrees with the canceled check or receipt.
 - check is properly endorsed and signed by the Sheriff
 - expenditure is for furtherance of justice (almost everything counts except personal items— see the guidance in Bulletin 1981-007 and 1997-014)
 - Determine that the officer completes an affidavit to support confidential payments, describing the amount of the expenditure and either the check number or the receipt number related to the expenditure as well as a statement of a general nature of the expenditure. If an affidavit is executed, the Auditor of State will not require production of the actual check or receipt and will not make any further inquiry into the detail surrounding the expenditure unless there is probable cause to believe that the affidavit is false. If no affidavit is executed, the officer must produce sufficient documentation to support that the expenditure is for a proper public purpose. Please note that a mere assertion by the officer that an expenditure is confidential is not sufficient to negate the documentation requirements.
 - Determine whether other (i.e. non confidential) disbursements are adequately supported by original documents (e.g., original invoices, receipts, receiving report, etc.)
 - Determine that checks do not appear to have been altered
 - Determine whether amounts agree among related documents, and that computations (footings, extensions, etc.) are correct.

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

3-15(b) Law Enforcement Trust Fund**Mandatory Drug Fine**

Ohio Rev. Code § 2925.03 (F)(1) requires the clerk of a court to pay any mandatory fine imposed pursuant to division (D)(1) of this section and any fine other than a mandatory fine imposed for a violation of this section pursuant to division (A) or (B)(5) of section 2929.18 of the Revised Code to the county. . . or state law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. However, the Clerk shall not pay a mandatory fine so imposed to a law enforcement agency unless the agency has adopted a written internal control policy under division (F)(2) of this section that addresses the use of the fine moneys that it receives. Each agency shall use the mandatory fines so paid to subsidize the agency's law enforcement efforts that pertain to drug offenses, in accordance with the written internal control policy adopted by the recipient agency under division (F)(2) of this section. **(Audit Program Steps 1-4 starting on page 33)**

Ohio Rev. Code § 2925.03 (F)(2) provides guidance on preparing an internal control policy which describes the general types of allowable expenditures from the Law Enforcement Trust Fund. **(Audit Program Steps 1-4 starting on page 33)**

Forfeited Moneys

Ohio Rev. Code § 2981.13(C)(2)(A) requires sheriffs and county prosecutors to adopt an internal control policy relating to proceeds and forfeited money. The policy should address the use and disposition of all the proceeds and forfeited moneys, the general type of expenditures to be made out of the proceeds and forfeited moneys received, and records to be maintained.

Ohio Rev. Code § 2981.11(B)(2) provides that any law enforcement agency that receives or uses any proceeds or forfeited monies out of a law enforcement trust fund under Ohio Rev. Code § 2981.13 shall ~~maintain records kept under the internal control policy of the agency which shall be open to public inspection during the agency's regular business hours. prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept pursuant to this section and shall send a copy of the cumulative report to the Attorney General by March 1.~~ **(Steps 1-11 starting on page 32)**

Sample Questions and Procedures (To be performed every year):

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 program below.

Law Enforcement Trust Fund Audit Program (To be performed every three years):

Auditors auditing counties should use this audit program to test Law Enforcement Trust Fund accounts. Auditors should develop a schedule for performing tests of compliance over these accounts on a rotational basis, with the audit programs being applied at least every third year. You should occasionally test these requirements every other year so the auditee cannot predict the year we will test this. We should not disclose our schedule to the auditee. However, if problems were noted with one of the funds in the previous year, apply the audit programs annually until the problems have been corrected (for example, the audit program procedures should be applied if significant expenditures were noted in the previous year which were not supported by appropriate documentation or were not for a proper public purpose).

Audit Program Steps:

1. Obtain the written internal control policy Ohio Rev. Code § 2925.03(F)(2)(a) requires. The policy should address the law enforcement agency's use and disposition of all drug fine moneys received, and require using detailed financial records of the receipts of the fine moneys, the general types of expenditures made of this fine money, and the specific amount of each general type of expenditure.

The policy shall not provide for or permit the identification of any specific expenditure made for an ongoing investigation. All financial records of receipts and expenditures by the law enforcement agency are considered public records open for inspection.

2. Review the written internal control policy for the appropriate elements noted in step 1 above. (If we reviewed the policy in a prior audit, scan for changes and document in the permanent file.)
3. Determine if the law enforcement agency implemented the written internal control policy and has complied with the provisions pertaining to the use and disposition of drug fine moneys received, keeping of detailed financial records, allowability of expenditures made, and any limitations on the amount of each general type of expenditure.

We should test this via procedures we use to determine if controls have been implemented. These might include a walk-through and scanning a few disbursements and the related documentation and financial records. See AOSAM 30500.4568.

4. An additional fine imposed under Ohio Rev. Code § 2929.18(B)(4) does not require distribution to LET funds under Ohio Rev. Code § 2925.03(F).

Instead, fines imposed under Ohio Rev. Code § 2929.18(B)(4) must be used as provided in Ohio Rev. Code § 2925.03(H). This section requires fines to be used solely for the support of one or more eligible community addiction programs. Determine if any such fines existed and were spent according to Ohio Rev. Code § 2925.03(H).

5. Obtain the bank accounts and support documentation representing LET fund activity established by the prosecuting attorney and by the sheriff.
6. Test the bank reconciliation.
 - Foot the reconciliation.
 - Agree the bank balance per the reconciliation to the bank account statement balance.
 - Scan reconciling items for reasonableness. Trace any relatively large outstanding checks or deposits in transit to subsequent bank deposits or the date on which outstanding checks subsequently cleared the bank.

- Agree the book balance per the reconciliation to the LET fund accounting record's balance.
7. Scan disbursements for any unusual items.
 8. This step applies to both drug fines (Ohio Rev. Code § 2925.03(F)(1) and forfeited money (Ohio Rev. Code § 2981.13(B)(4)(b)).

Scan selected LET fund disbursements and supporting documentation (e.g. invoices, etc.) to determine if they were used only for the following purposes (Ohio Rev. Code § 2981.13(C)(2)(a)):

- protracted or complex investigations or prosecutions,
- to provide reasonable technical training or expertise,
- to provide matching funds to obtain federal grants to aid law enforcement,
- in support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse,
- to pay the costs of emergency actions taken under Ohio Rev. Code § 3745.13 relative to operating an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for operating the laboratory,
- or other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, department of taxation, Ohio casino control commission, board of township trustees, or board of park commissioners determines appropriate.
- The funds must not be used to meet the operating costs of the prosecuting attorney or sheriff (Ohio Rev. Code §2981.13(C)(2)(c)).

The funds' use is also subject to the written internal control policy described in Step 1 above. If transactions do not comply with the policy, we should cite noncompliance with the policy.

We require only a low level of assurance from this testing. Select sample sizes accordingly, or use high dollar testing if it is more efficient and provides greater coverage.

9. Determine if the prosecuting attorney and sheriff have adopted a written internal control policy addressing the use of moneys received from contraband as required by Ohio Rev. Code § 2981.13(C)(2)(A). Test costs selected in Step 8 above and ensure forfeited monies from drug related cases have been expended only in accordance with the written internal control policy adopted.
- ~~10. Determine if the prosecuting attorney and sheriff have filed the report Ohio Rev. Code § 2981.11(B)(2) requires with the Attorney General by March 1. Auditors should send Ohio Rev. Code § 2981.11(B)(2) noncompliance violations (report and/or management letter) to the Auditor of State legal division.~~
11. Determine if moneys from the sale of contraband were disbursed to the appropriate agency or fund as indicated in the internal control policy.

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

3-16 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.**⁹

Summary of Requirements:

NOTE: IRS Notice 2013-54 and Department of Labor Technical Release 2013-03 states that employers may only reimburse employees' premiums for non-employer sponsored health care with post-tax dollars (i.e. employers must withhold taxes prior to making reimbursement). However, these reimbursements will not be used in computing allowable "gross salary" as prescribed in Ohio Rev. Code §505.24 and §505.09.

Generally, Ohio Rev. Code §505.60 permits townships to procure their own healthcare coverage, while Ohio Rev. Code §505.601 permits townships to opt not to procure their own plans, but still reimburse officers' and employees' for their healthcare premiums. Ohio Rev. Code §505.60 specifically permits townships to procure the following forms of healthcare coverage: hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, prescription drugs, or sickness and accident insurance. In addition, Ohio Rev. Code §505.60 allows townships to reimburse a township officer or employee for out-of-pocket premiums for insurance policies, including long-term care insurance¹⁰. 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. 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 for the officer, employee, and their immediate dependent 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)].

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

⁹ ~~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.~~

¹⁰ In a recent example, a township official who obtained coverage through an outside employer sought reimbursement for this outside employer's portion of his insurance premium. This is not permitted by law. Townships can only reimburse for the official's out-of-pocket portion of the premium – up to the average amount of premiums paid under the township's health insurance plan.

contract

The statute does not permit reimbursements for:

- deductibles
- the employer's portion of premiums
- healthcare expenses related to family members, not on the township healthcare plan

If a township opts not to procure its own health insurance, it still is permitted to reimburse any township officer or employee for each out-of-pocket premium that the officer or employee incurs pursuant to Ohio Rev. Code §505.601. 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 each officer and employee,
3. The resolution states the specific benefits, pursuant to Ohio Rev. Code §505.60(A), that will be reimbursed.

Ohio Rev. Code § 505.601 (reimbursement when a township does *not* offer health insurance to its officers/employees) covers reimbursements made to township officers/employees for dependent health care coverage. 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 Ohio Rev. Code § 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 pay 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 direct payments 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 Ohio Rev. Code § 505.60 and 505.601.

2013 Op. Atty. Gen. No. 2013-022 states a board of township trustees may reimburse a township officer or employee pursuant to Ohio Rev. Code § 505.601 for monthly Medicare Parts A, B, and D premium payments made by the officer or employee, so long as the benefits provided by Medicare Parts A, B, and D are consistent with the benefits identified in the township resolution stating that the township has chosen not to procure a health care plan under Ohio Rev. Code § 505.60 and the reimbursement does not exceed the uniform monthly or yearly payment amount set by that resolution.

Auditors should refer to AOS Bulletin 2009-003 for additional information.

Sample Questions and Procedures:

1. Inquire and scan the records to determine if the township reimbursed any officer or employees for

insurance benefit premiums during the period under Ohio Rev. Code §505.60 or §505.601?

2. Review the resolution authorizing reimbursement. (We should maintain a copy in the permanent file so we needn't repeat this step each audit.)
3. Review the township's procedures for ensuring reimbursements meet the requirements of [Ohio Rev. Code §505.60(A) or the reimbursement resolution from Ohio Rev. Code §505.601].
4. Review a few employees' reimbursement transactions to determine if they were allowable.

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

3-17 Compliance Requirements: Ohio Rev. Code § 505.603¹¹ - “Cafeteria Plans” - Townships.¹²

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 percent 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**

¹¹ In addition to providing the benefits to township officers and employees under section 505.60, 505.601, or 505.602 of the Ohio Rev. Code, a board of township trustees may offer a health and wellness benefit program through which the township provides a benefit or incentive to township officers, employees, and their immediate dependents to maintain a healthy lifestyle, including, but not limited to, programs to encourage healthy eating and nutrition, exercise and physical activity, weight control or the elimination of obesity, and cessation of smoking or alcohol use.

The township fiscal officer may deduct from a township employee's salary or wages the amount authorized to be paid by the employee for one or more qualified benefits available under section 125 of the "Internal Revenue Code of 1986," 26 U.S.C. 125, and under the sections listed in division above, if the employee authorizes in writing that the township fiscal officer may deduct that amount from the employee's salary or wages, and the benefit is offered to the employee on a group basis and at least ten per cent of the township employees voluntarily elect to participate in the receipt of that benefit. The township fiscal officer may issue warrants for amounts deducted under this division to pay program administrators or other insurers for benefits authorized under this section or those sections listed above.

¹² 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.~~

amendment.

1. Do you offer your officers and employees benefits through a cafeteria plan?
2. Inquire if the township worked with their legal counsel and/or accountants to design and administer the plans properly. If so, secure any documentation legal counsel or the accountants have supplied to the township.
3. Did the IRS approve your plan? Please show me a copy of the approval letter.
4. Review the policy document for conformance with the requirements.
5. Describe your procedures for ensuring reimbursements met the requirements of Ohio Rev. Code §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).

Inquire with the fiscal officer to determine how health care reimbursements are recorded.

For UAN entities: Use the wage base earning report – detail and summary. For periods before 2015, use the wage detail report.

8. Determine if the employees' W-2 forms reflect additional income for the benefit if applicable.

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