

**OFFICE OF THE  
STATE AUDITOR**

**Minnesota Legal Compliance  
Audit Guide for  
Counties**

## ORDER

Pursuant to Minn. Stat. § 6.65, I hereby prescribe the form and scope of the Minnesota Legal Compliance Audit Guide for Counties. The attached audit guide is hereby incorporated in its entirety. The audit guide consists of the following sections:

Page 1-1	Depositories of Public Funds and Public Investments,
Page 2-1	Conflicts of Interest,
Page 3-1	Public Indebtedness,
Page 4-1	Contracting - Bid Laws,
Page 5-1	Claims and Disbursements,
Page 6-1	Examples of Independent Auditor's Reports
Page 7-1	Miscellaneous Provisions
Page 8-1	Tax Increment Financing.

These sections will comprise the minimum procedures and audit scope for legal compliance for counties in Minnesota.

/s/

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Julie Blaha  
State Auditor

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## INTRODUCTION

This Legal Compliance Audit Guide (Audit Guide) was prepared by the Office of the State Auditor pursuant to Minn. Stat. § 6.65, in consultation with representatives from the Attorney General's Office, towns, cities, counties, school districts, and private sector public accountants. The Legal Compliance Audit Guide establishes minimum compliance guidelines for verification by auditors engaged in the process of auditing counties of the state.

This Audit Guide is divided into specific sections and presented in checklist form to assist the auditor of government units in the verification of statutory compliance. The Audit Guide is not meant to be a complete compilation of all laws affecting municipalities or a complete analysis of the laws cited throughout. The checklist is meant to act as a reference guide regarding minimum legal compliance, and municipal auditors must examine, in addition to applicable laws cited in the guide, those laws creating, granting power to, and restricting the municipal entities they are auditing.

Under each section, except for the initial question establishing the transaction covered by the topic heading and except where the explanation of a given question indicates otherwise, all questions should be answered in the affirmative. A negative answer indicates a compliance problem, and the user of the checklist is directed to the statutory section indicated on the left-hand side of the page. If, after examination of the appropriate statute, the auditor using this Audit Guide is still unsure as to whether there has been legal compliance, he or she should check with legal counsel before rendering the opinion on compliance contained at the end of each section.

### AUDITOR'S REPORTS ON COMPLIANCE

Chapter 6 contains two model reports, one of which is to be completed by the auditor following his or her completion of the appropriate compliance sections.

These reports or the language from these reports must be issued as part of the audits of the governmental entities or relief associations.

### PREPARATION OF MINUTES

Auditing for legal compliance will require a review of the minutes of the County Board. In many instances, the minutes will be inadequate histories of the meetings involved. We have, therefore, deemed it appropriate to include below a discussion of minutes, so that in those instances where the minutes are substandard, auditors can provide a standard to assist clients in the future recording of meeting minutes.

Minutes may be defined as a record of the “proceedings” of a deliberative body. Minnesota Statutes § 384.09 refers to the county auditor keeping an accurate record of the board’s “official proceedings.” The Minnesota Attorney General has used the definition of “proceedings” found at Minn. Stat. § 331A.01, subd. 6, in analyzing the clerk’s duties to take minutes. This statute states:

“Proceedings” means the substance of all official actions taken by the governing body of a political subdivision at any regular or special meeting, and at minimum includes the subject matter of a motion, the persons making and seconding a motion, the roll call vote on a motion, the character of resolutions or ordinances offered, including a brief description of their subject matter, and whether defeated or adopted.

While minutes must specifically identify the actions taken by the board, they need not record the discussions of the members and others. At a minimum, the minutes must include the information required by Minn. Stat. ch. 13D [Minnesota Open Meeting Law], unless such information is recorded elsewhere. Minn. Stat. § 13D.01, subd. 4, provides:

The votes of the members of the state agency, board, commission, or department; or of the governing body, committee, subcommittee, board, department, or commission on an action taken in a meeting required by this section to be open to the public must be recorded in a journal or minutes. . . The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

In addition, subd. 5 states, “[t]he journal or any minutes used to record votes of a meeting subject to this chapter must be open to the public during all normal business hours where records of the public body are kept.”

The above provision requires that the individual votes of each member of the county board on “an action” be specifically recorded except for votes on “payments of judgments, claims, and amounts fixed by statute.”

Having satisfied minimum requirements, the question of how elaborate and extensive the minutes should be is largely a policy matter for determination by the particular body in the exercise of reasonable judgment and discretion. The Attorney General has explained:

...there may be circumstances in which it would be advisable for the town board to provide for the minutes to include information over and above what is necessary to satisfy minimum statutory requirements for a record of its official actions.

Op. Atty. Gen. 851-C, March 5, 1992. For example, the board’s reasons for reaching a particular decision could be crucial in defending a challenge to the action taken. The inclusion of such information may be deemed appropriate under other circumstances, such as where the body determines that the public interest warrants the award of a particular contract to a bidder other than the lowest bidder.

Other examples might be zoning decisions, such as the granting of variances or special use permits. In any case, the amount of detail which is appropriate for inclusion in the minutes is likely to vary, depending upon the nature of the proceedings and the subject matter involved.

While the minutes of a county board should attempt to furnish relevant information over and above bare minimum requirements, they should not, at the same time, be cluttered with unnecessary detail which hampers efforts to review or otherwise utilize them at a later date. Perhaps the best standard to be applied to the preparation of minutes is the one applied by the courts to the publication of official proceedings, i.e., the minutes should be “sufficiently full to fairly set forth the proceedings.” *Ketterer v. Indep. Sch. Dist. No. 1*, 79 N.W.2d 428, 438 (Minn. 1956); *See Op. Atty. Gen. 161-a-20*, Dec. 17, 1970.

## DESTRUCTION OF RECORDS

Minnesota Statutes § 15.17, subd. 1, requires all officers and agencies of the state, counties, cities, towns, school districts, municipal subdivisions or corporations, and other public authorities or political entities within the state to make and preserve all records necessary for “a full and accurate knowledge of their official activities.” The chief administrative officer is responsible for the preservation and care of the agency’s government records, which include all “written or printed books, papers, letters, contracts, documents, maps, plans, computer-based data, and other records made or received pursuant to law or in connection with the transaction of public business.” Minn. Stat. § 15.17, subd. 2. This duty not only prohibits destruction, but requires the custodian to take such steps as are necessary to protect public records from deterioration, mutilation, loss, or destruction. This statute also requires that all records must be delivered to the legal custodian’s successor upon expiration of the term of office or authority. Minn. Stat. § 15.17, subd. 3. Additional provisions regarding data practices are found in the Minnesota Government Data Practices Act, Minn. Stat. ch. 13.

For counties having problems with the storage of obsolete records, Minn. Stat. §§ 138.163-.25 provide relief. Any person who intentionally and unlawfully removes, mutilates, destroys, conceals, alters, defaces or obliterates a public record is guilty of a misdemeanor. Minn. Stat. § 138.225.

Unless a county adopts a records retention schedule (and notifies the Minnesota Historical Society), it may not destroy public records without the permission of the records disposition panel. Applications may be made to the State Archives Department for such permission. For instance, bids with supporting documents received by a county must be kept forever, unless the county (1) adopts the General Records Retention Schedule for Counties, in which case, the county must maintain these records for ten years, (2) adopt its own properly approved records retention schedule, or (3) receive authority to dispose of the records from the records disposition panel.

A county that wishes to adopt the General Records Retention Schedule for Counties can find information on the [State Archives website](#).

For information and assistance in disposing of or transferring government records, contact:

Minnesota Historical Society  
State Archives Department  
345 Kellogg Boulevard West  
St. Paul, Minnesota 55102-1906  
(651) 259-3260

<http://www.mnhs.org/preserve/records/index.htm>

Questions about the Minnesota Government Data Practices Act should be directed to:

Minnesota Department of Administration  
Data Practices Office  
320 Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
(651) 296-6733

<https://mn.gov/admin/data-practices/>

In future years, the *Minnesota Legal Compliance Audit Guide for Counties* will be updated and additional compliance sections may be added. If you have comments or suggestions with regard to future editions, please contact us at:

Office of the State Auditor  
525 Park Street, Suite 500  
St. Paul, Minnesota 55103  
(651) 296-2551  
(651) 296-4755 (Fax)

<http://www.osa.state.mn.us>

**COUNTY  
DEPOSITORIES OF PUBLIC FUNDS  
AND  
PUBLIC INVESTMENTS**

**LEGAL COMPLIANCE AUDIT GUIDE**  
**DEPOSITORIES OF PUBLIC FUNDS**  
**AND**  
**PUBLIC INVESTMENTS**

Introduction

Counties may deposit funds only in financial institutions designated by the county board. The board may authorize the county treasurer or chief financial officer to make such designations. All county funds on deposit must be protected by federal deposit insurance, corporate surety bond, or assigned collateral.

“Government entity” for the purpose of this section includes counties. Minn. Stat. § 118A.01, subd. 2.

This section does not apply to entities whose investment authority is specified under Minn. Stat. ch. 11A (Investment of State and Pension Assets), or 356A (Public Pension Fiduciary Responsibility). *Id.*

“Public funds” for the purpose of this section means all general, special, permanent, trust, or other funds, regardless of source or purpose, held or administered by a government entity, unless otherwise restricted. Minn. Stat. § 118A.01, subd. 4.

When auditing a county, complete this section to determine if the county has properly invested its funds or deposited its funds in a properly designated depository with appropriate collateral or bond.

**OPEB Trusts** - The assets of a trust created to pay postemployment benefits (giving rise to a liability under GASB Statement 45) to employees or officers after their termination of service shall be invested and held as provided in Minn. Stat. § 471.6175.

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
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<b>Part I. Designation of Depository</b>
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§ 118A.02, subd. 1	A. In the case of a county:			
	1. Has each depository of public funds been designated by the county board, or by the county treasurer or chief financial officer, if the county board has authorized them to make such a designation?			
§ 118A.01, subd. 3	2. Is each depository one of the following:			
	a. a savings association;			
	b. a commercial bank;			
	c. a trust company;			
	d. a credit union; or			
	e. an industrial loan and thrift company?			

<b>Part II. Insuring or Securing Deposits</b>
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§ 118A.03	A. If a county desires to deposit an amount in excess of deposit insurance, it must obtain a bond or collateral which, when computed at its market value, shall be at least ten percent more than the amount of the excess deposit at the close of the banking day. For the purpose of this section, “banking day” has the meaning given in Federal Reserve Board Regulation CC, 12 C.F.R. § 229.2(f), and incorporates a financial institution’s cutoff hour established under Minn. Stat. § 336.4-108. If irrevocable standby letters of credit from Federal Home Loan Banks are used as collateral, the amount must be equal to the amount of the excess deposit at the close of the banking day.			
	B. Review the following general principles of FDIC coverage and complete the spread sheet in this section to determine the amount of the county’s funds that are not insured and thus need to be either bonded or collateralized. Deposits held by credit unions are covered by separate deposit insurance rules promulgated by the National Credit Union Administration (NCUA).			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	<p><b>General Principles of FDIC coverage:</b></p> <ol style="list-style-type: none"> <li>1. Deposits are insured only if the depository is a member of Federal Deposit Insurance Corporation (FDIC).</li> <li>2. Deposits in one depository are insured separately from deposits in another depository which is not a branch of the first one. However, a depository and all of the branches associated with it are treated as a single combined depository, and the funds deposited in the branches are aggregated for purposes of insurance coverage.</li> <li>3. The aggregate of a government entity's time/savings accounts, i.e., savings accounts, NOW accounts, and time deposits (CDs), with the same depository are insured up to a total of \$250,000. The aggregate of a government entity's demand accounts, i.e., non-interest and interest-bearing checking accounts, are insured up to a total of \$250,000 and are insured separately from the government entity's time/savings deposits. This separate \$250,000 coverage for demand and time/savings accounts only applies if the depository is in the same state as the government entity.</li> <li>4. A public authority, public corporation, public commission, or special district receives separate insurance coverage from its parent government entity only if its creation is expressly authorized by state statute, government functions have been delegated to it by law, and funds have been allocated for its exclusive use and control. Subordinate or non-autonomous divisions, agencies, or boards do not receive separate insurance coverage.</li> <li>5. Funds held for a special purpose and required by law to be paid to bondholders or beneficiaries such as members of pension funds or relief associations are covered up to \$250,000 per bondholder or beneficiary whether the beneficial interest is vested or not. The fiduciary nature must be indicated on the account name in the bank's records.</li> <li>6. If more than one person is legal or official custodian of funds for a government entity, each custodian having plenary authority (including control) over the funds is separately insured up to \$250,000. Also, if the same person is the custodian of funds for two separate government entities, the funds for the two government entities are separately insured.</li> <li>7. Moneys held by a government entity in trust are insured separately from other government entity funds only <u>if</u> the trust is linked to a written trust agreement, court order or statute, the owner does not retain an interest in the use of the assets, and the interests of beneficiaries are ascertainable and not contingent.</li> </ol>			
	<p>C. Was collateral coverage sufficient? (Answer after completing the spreadsheet on page 1-11.)</p>			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>		Yes	No	Workpaper Reference
<b>Part III. The Bond and Collateral</b>					
§ 118A.03, subd. 1	A. If a bond was furnished by the depository to the county, answer the following question:				
	1. Was the bond executed by a corporate surety company authorized to do business in the state?				
§ 118A.03, subd. 2	B. If the depository assigned collateral to the county, answer the following questions:				
	1. Was the collateral one of the following:				
	a. U.S. government treasury bills, notes, or bonds;				
	b. issues of a U.S. government agency or instrumentality that are quoted by a recognized industry quotation service available to the government entity;				
	c. a general obligation of a state or local government, with taxing powers, rated "A" or better;				
	d. a revenue obligation of a state or local government, with taxing powers, rated "AA" or better;				
	e. unrated general obligation securities of a local government, with taxing powers, pledged as collateral against funds deposited by that same local government entity;				
	f. an irrevocable standby letter of credit issued by a Federal Home Loan Bank accompanied by written evidence that the Federal Home Loan Bank's public debt is rated "AA" or better by Moody's or Standard and Poor's; or				
	g. time deposits insured by any federal agency?				
§ 118A.03, subd. 7	2. Was the collateral placed for safekeeping:				
	a. In a restricted account at the Federal Reserve Bank; or				
	b. in an account at a trust department of a commercial bank or other financial institution not owned or controlled by the depository?				
	3. Did the government entity approve of the selection of the safekeeping entity?				
§ 118A.03, subd. 4	4. Was the collateral assignment in writing?				
	5. Did the assignment provide that, upon default, the depository shall release the collateral pledged to the government entity on demand, free of exchange or other charges?				

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
§ 118A.03, subd. 3	<p>C. Collateral pledged must equal at least ten percent more than the uninsured and unbonded amount on deposit at the close of the banking day. If irrevocable standby letters of credit from Federal Home Loan Banks are used, the amount must be equal to the amount of the excess deposit at the close of the banking day. The depository may, at its discretion, furnish both a bond and collateral aggregating the required amount.</p> <p>For the purpose of this section, “banking day” has the meaning given in Federal Reserve Board Regulation CC, 12 C.F.R. § 229.2(f), and incorporates a financial institution’s cutoff hour established under Minn. Stat. § 336.4-108.</p>			
	1. If a bond was obtained or standby letters of credit from Federal Home Loan Banks were pledged, was the amount of excess deposit at the close of the banking day (as defined above) equal to or less than the amount of the bond or standby letters of credit?			
	2. If other collateral was pledged, was the amount of collateral at least ten percent more than the uninsured amount on deposit at the close of the banking day?			
	D. Assignment [Federal Statutory Requirements]			
[12 U.S.C. § 1823(e)]	1. Was the written assignment approved by the depository’s board of directors or loan committee?			
	2. Was the assignment an official record of the depository?			
§ 118A.03	E. If the county used a sweep account, did the timing of the sweep take place so that all amounts on deposit at the end of the banking day were protected by deposit insurance, bond, or pledged collateral?			

<b>Part IV. Public Investments</b>				
	A. Were all repurchase agreements and reverse repurchase agreements <u>only</u> entered into with:			
§ 118A.05, subd. 2	1. a financial institution qualified as a depository of public funds;			
	2. any other financial institution which is a member of the Federal Reserve System <u>and</u> whose combined capital and surplus equals or exceeds \$10,000,000;			
	3. a primary reporting dealer in United States government securities to the Federal Reserve Bank of New York; or			
	4. a securities broker-dealer licensed pursuant to chapter 80A, or an affiliate of it, regulated by the Securities and Exchange Commission and maintaining a combined capital and surplus of \$40,000,000 or more, exclusive of subordinated debt?			
§ 118A.06	B. If the county safekeeps investments with a third party:			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	1. Is the county's ownership of all securities in which the fund is invested evidenced by written acknowledgments identifying the securities by the names of the issuers, maturity dates, interest rates, CUSIP numbers, or other distinguishing marks?			
	2. Were investments, contracts, and agreements held in safekeeping with:			
	a. a Federal Reserve Bank;			
	b. any bank authorized under the laws of the United States or any state to exercise corporate trust powers, including, but not limited to, the bank from which the investment is purchased;			
	c. a primary reporting dealer in United States government securities to the Federal Reserve Bank of New York; <u>or</u>			
	d. a securities broker-dealer, or an affiliate of it, that			
	(1) Is registered as a broker-dealer under Chapter 80A or is exempt from the registration requirements;			
	(2) is regulated by the Securities and Exchange Commission; <u>and</u>			
	(3) maintains insurance through the Security Investor Protection Corporation (SIPC) or excess insurance coverage in an amount equal to or greater than the value of the securities held?			
	C. Were the securities sold or pledged under the repurchase agreement or reverse repurchase agreement permissible direct investments under Minn. Stat. § 118A.04 (see L and M below)?			
	D. Were all reverse repurchase agreements only entered into:			
§ 118A.05, subd. 2	1. for a period of 90 days or less; and			
	2. only to meet short-term cash needs and not to generate cash for investments?			
	E. Were all securities lending agreements (including custody agreements) entered into only with:			
§ 118A.05 subd. 3	1. a financial institution qualified as a depository having an office in Minnesota; or			
	2. a financial institution which is a member of the Federal Reserve System <u>and</u> whose combined capital and surplus equals or exceeds \$10,000,000, <u>and</u> which has an office in Minnesota?			
	F. Did the custodian or entity operating the securities lending program only enter into securities lending transactions with those entities identified in Part IV.A. (above)?			
§ 118A.05, subd. 5	G. Guaranteed investment contracts or agreements			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	1. Were all guaranteed investment contracts or agreements only entered into with an issuer or guarantor that was a U.S. commercial bank, a domestic branch of a foreign bank, a U.S. insurance company, or its Canadian subsidiary, or the domestic affiliates of any of the foregoing?			
	2. Was the issuer's or guarantor's long-term and short-term unsecured debt:			
	a. rated in one of the highest two categories by a nationally recognized rating agency, <u>or</u>			
	b. was the term of the guaranteed investment contract 18 months or less, <u>and</u> was the credit quality of the issuer's short-term unsecured debt rated in the highest category by a nationally recognized rating agency (regardless of the credit quality of the issuer's or guarantor's long-term unsecured debt)?			
	H. Did all guaranteed investment contracts give the county withdrawal rights in the event the issuer's or guarantor's credit quality was downgraded below "A"?			
§ 118A.05, subd. 4	I. Did the county only invest in shares of a Minnesota joint powers investment trust whose investments were restricted to securities described in Minn. Stat. §§ 118A.04 and 118A.07, subd. 7?			
§ 118A.05, subd. 4	J. Mutual Funds - Did the county invest only in shares of an investment company that met the criteria in either 1 or 2 below:			
	1. a. registered under the Federal Investment Company Act of 1940;			
	b. whose shares were registered under the Federal Securities Act of 1933;			
	c. whose fund received the highest credit rating;			
	d. that was rated in one of the highest risk rating categories by at least one nationally recognized statistical rating organization; <u>and</u>			
	e. that only invests in financial instruments with a final maturity no longer than 13 months?			
	2. a. registered under the Federal Investment Company Act of 1940;			
	b. which holds itself out as a money market fund meeting the conditions of SEC rule 2a-7; <u>and</u>			
	c. is rated one of the two highest rating categories for money market funds by at least one nationally recognized statistical rating organization?			
§ 118A.05, subd. 4	K. Did the county invest only in units of a short-term investment fund:			
	1. established and administered pursuant to regulation 9 of the Comptroller of the Currency; and			
	2. in which investments are restricted to securities described in Minn. Stat. § 118A.04?			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	L. Were all other funds invested in instruments which met at least one of the following criteria:			
§ 118A.04	1. In governmental bonds, notes, bills, mortgages, and other securities, which were direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress, excluding mortgage-backed securities defined as “high risk” (see Section M - Mortgage-Backed Securities);			
	2. In a general obligation of a state or local government with taxing powers which was rated “A” or better by a national bond rating service;			
	3. In a revenue obligation of a state or local government which was rated “AA” or better by a national bond rating service;			
	4. In a general obligation of the Minnesota Housing Finance Agency which was a moral obligation of the State of Minnesota and is rated “A” or better by a national bond rating agency;			
	5. In an obligation of a school district with an original maturity not exceeding 13 months which is (i) rated in the highest category by a national bond rating service or (ii) enrolled in the credit enhancement program pursuant to Minn. Stat. § 126C.55;  [Note: This authority is in addition to and does not limit the authority provided by items 2 and 3, above.]			
	6. In commercial paper issued by a United States corporation or its Canadian subsidiary and that:			
	a. was rated in the highest quality category by at least two nationally recognized rating agencies, and			
	b. matures in 270 days or less;			
§ 118A.04, subd. 5	7. In time deposits fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration;			
§ 118A.04, subd. 5	8. In bankers’ acceptances issued by United States banks;			
§ 118A.04, subd. 7	9. In the county’s own temporary obligations issued under Minn. Stat. §§ 429.091, subd. 7 (special assessments), 469.178, subd. 5 (tax increment bonds), or 475.61, subd. 6, <u>or</u>			
§ 136F.91	10. Bonds issued by Minnesota State Colleges and Universities under Minn. Stat. §§ 136F.90 to 136F.98?			
§ 118A.04, subd. 8	Note: A debt service fund can purchase any issue payable from the fund.			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	M. Mortgage-Backed Securities			
§ 118A.04, subd. 2	Counties may only purchase mortgage-backed securities that are direct obligations or guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress.			
	Mortgage-backed securities purchased shall not be “high risk.” Minn. Stat. § 118A.04, subd. 6, states, “high risk mortgage-backed securities” are:			
§ 118A.04, subds. 2 & 6	1. interest-only or principal-only mortgage-backed securities; and			
	2. any mortgage derivative security that:			
	a. has an expected average life greater than ten years; or			
	b. has an expected average life that:			
	(1) will extend by more than four years as the result of an immediate and sustained parallel shift in the yield curve of plus 300 basis points, or			
	(2) will shorten by more than six years as the result of an immediate and sustained parallel shift in the yield curve of minus 300 basis points; or			
	c. will have an estimated change in price of more than 17 percent as the result of an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.			
	3. Were all mortgage-backed securities purchased by the county after August 1, 1993, <u>not</u> “high risk?”			

**Part V. Additional Long-Term Equity Investments**

	If the county invested in equity investments, answer the following questions:			
§ 118A.09, subd. 1	A. Does the county meet one of the following requirements:			
	1. a population of more than 100,000, <u>or</u> :			
	2. its most recently long-term senior general obligation rating by one or more national rating organizations in the prior 18-month period is AA or higher?			
§ 118A.09, subd. 2	B. Were the equity investments in one of the following:			
	1. an index mutual fund:			
	a. based in the United States,			
	b. indexed to a broad market United States equity index, and			
	c. made directly with the main sales office of the fund?			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	2. in a long-term equity account with the State Board of Investment?			
§ 118A.09, subd. 3	C. Did the total amount invested in equities not exceed 15 percent of the sum of:			
	1. unassigned cash;			
	2. cash equivalents;			
	3. deposits; and			
	4. investments,			
	based on the most recent audited statement of net position, which must be compliant and audited pursuant to governmental accounting and auditing standards?			
	Note: Once the value of equity investments reaches or exceeds the 15 percent cap, no further funds may be invested in equities.			
§ 118A.09, subd. 4	D. Prior to investing in equities, did the county board adopt a resolution that included the following statements:			
	1. the county board understands that the equity investments have a risk of loss,			
	2. the county board understands the types of funds being invested and the specific investments themselves, and			
	3. the county board certifies that all funds designated for investment by the State Board of Investment meet the requirements of Minn. Stat. § 118A.09 and the policies and procedures established by the State Board of Investment.			

**Part VI. Broker Acknowledgement Certification**

§ 118A.04, subd. 9	A. Annually, prior to completing an initial investment transaction with each broker, did the county provide to that broker a written statement of investment restrictions?			
	B. Did the broker acknowledge receipt of the investment restrictions and agree to handle the county's account in accordance with the restrictions?			
	C. Did the county retain documentation of compliance with A and B above?			





**COUNTY  
CONFLICTS OF INTEREST**

# LEGAL COMPLIANCE AUDIT GUIDE

## CONFLICTS OF INTEREST

### Introduction

Rule: A public officer authorized to take part in the making of a sale, lease, or contract shall not voluntarily have a personal financial interest in the transaction or personally benefit financially from it. Minn. Stat. § 471.87. The following persons are specifically forbidden from having any interest in any contract made by their respective governing bodies:

1. elected officers;
2. town supervisors and town board members;
3. county officials, county deputies, county clerks, and employees of such officials; or
4. school board members.

Exceptions: For practical reasons, the legislature has created certain limited exceptions to the general prohibition set forth in Minn. Stat. § 471.88. Part I of this questionnaire will assist you in making a determination as to whether an otherwise forbidden transaction fits within any of the statutory exceptions. Care should be taken to determine whether any exception considered applies to the entity and contract being audited.

For the purposes of this checklist, “interested officer” shall mean a public officer or employee, as listed above, who directly or through his or her spouse (see “Discussion” below) has a prohibited position or interest in either the entity making or the subject matter of the sale, lease, or contract with the county. Examples include:

1. officer;
2. director;
3. employee (see “Discussion” below);
4. partner;
5. owner (complete or partial); or
6. shareholder.

Discussion: The determination as to whether a particular transaction involves an “interested officer” often calls for a judgment on the part of the auditor. A helpful concept to remember for analysis is that it is a conflict of interest to be on both sides of a contract or transaction.



Most problems in this regard arise in the examination of the “interest” the public officer has in the person or entity making the contract with the county. Two frequent problem areas are:

1. Contracts with Officer’s or Employee’s Spouse or Family Member.

It is not a conflict of interest per se for a governing body to contract or otherwise economically transact with a member officer’s spouse or family member. However, if the facts indicate an economic benefit to the member officer as a result of the contract or transaction, a conflict of interest exists. For example, if a husband and wife, one of whom is a public officer, share a common pool of funds and likewise share debts, conflicts may exist because there is benefit to the public officer or employee flowing from the economic benefit to his or her spouse. Likewise, if a governmental officer or employee and his or her spouse, in fact, do not economically benefit from each other, a conflict may not exist. This analysis would apply to all familial relationships. The auditor will need to factually determine whether an emancipated child living away from home has a financial interest with his or her parents.

2. Contracts with Companies in Which the Officer is an Employee.

If the involved governmental officer or employee is simply a company employee without managerial powers and receives the same salary or raise regardless of the company’s contract with the governing body, there probably is no conflict of interest. However, if said officer receives a bonus or commission or other benefit as a result of the contractual transaction between his or her company and the government entity, there is definitely a conflict of interest.

There are numerous aspects to be examined by the auditor in order to understand the totality of interests involved in a given contract or transaction between the governing body and an entity or person with a relationship to a member officer.

If, after review of the facts and applicable statutes, you are still unsure as to whether a particular set of circumstances constitutes a conflict of interest, you should contact an attorney for advice prior to preparing the “Audit Conclusion” at the end of this audit guide section.

Other Statutory References to Conflicts of Interest. In addition to the general statutory prohibition on conflicts of interest cited in the checklist, auditors should be aware that other statutory prohibitions and requirements exist with regard to certain types of municipal entities:

<u>Persons/Entities</u>	<u>Statute</u>
Public and local officials of metropolitan governmental units (as defined by Minn. Stat. § 10A.01, subds. 35, 22, and 24)	§ 10A.07
Housing and Redevelopment Authorities (commissioners and employees)	§ 469.009
Economic Development Authorities (commissioners and employees)	§ 469.098

Minn. Stat. Section	CONFLICTS OF INTEREST		Yes	No	Workpaper Reference
<b>Part I. Contracts Generally</b>					
§ 471.87	- Unless a statutory exception applies, a public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit therefrom.				
	- The County Board may contract for goods or services with an interested officer only by unanimous vote. <u>See A, infra.</u> In addition to the unanimous vote, one of the statutory exceptions must apply. <u>See B, infra.</u>				
§ 471.88, subd. 1	A. Contract for Goods or Services/Unanimous Approval				
	1. If there were any sales, leases, or contracts between the County Board and an interested officer, was each contract a contract for goods or services? <u>and</u>				
	2. If there were any sales, leases, or contracts between the County Board and an interested officer, did the County Board approve the transaction by unanimous vote?				
	Note: In general, all <u>members</u> present must vote in order to produce a unanimous vote; except that the interested officer may abstain (as a practical matter).				
	B. Statutory Exceptions				
§ 471.88, subd. 2	1. Designation of Bank or Savings Association  If the transaction involved the designation of a bank or savings association as an authorized depository for public funds and as a source of borrowing:				
	a. Did the interested officer disclose to the County Board that he or she was a director or employee of the bank or savings association?				
	b. Was such disclosure entered into the minutes of the County Board's meeting prior to the first designation of the bank or savings association as a depository or at the time of the interested officer's election, whichever was later?				
§ 471.88, subd. 3	2. Designation of Official Newspaper				
	If a transaction involved the designation of an official newspaper or publication of official matters therein:				
	a. Was the newspaper in which the officer had an interest the only newspaper complying with statutory or charter requirements relating to designation or publication?				

Minn. Stat. Section	<b>CONFLICTS OF INTEREST</b>	Yes	No	Workpaper Reference
§ 471.88, subd.4	3. Stockholder of Cooperative Association			
	If the transaction involved a contract with a cooperative association:			
	a. Was the officer a shareholder or stockholder and not an officer or manager of the cooperative association?			
§ 471.88, subd. 5	4. Contracts That Do Not Need to Be Bid			
	If an interested officer entered into a contract for goods and services with the governing body:			
	a. Was the contract one that did not need to be bid?			
§ 471.89, subd. 2	b. Did the County Board, prior to performance of the contract, authorize the contract by adopting a resolution setting forth the essential facts and determining that the contract price was as low or lower than the price at which the commodity or service could be obtained elsewhere?			
§ 471.89, subd. 3	c. Prior to payment of the contract, did the interested officer file with the clerk of the County Board (typically the County Auditor) an affidavit stating:			
	(1) the name of the officer and office held;			
	(2) an itemization of the commodity or services furnished;			
	(3) the contract price;			
	(4) the reasonable value;			
	(5) the interest of the officer in the contract;			
	(6) that to the best of his/her knowledge and belief, the contract price was as low or lower than the price at which the commodities or services could have been obtained from other sources?			
§ 471.89, subd. 2	d. If the contract was entered into under emergency conditions, did the County Board adopt such a resolution prior to payment of the claims in which the facts of the emergency are also stated?			
§ 471.88, subd. 6	5. Contract with Fire Department			
	If the County Board entered into a contract with a fire department in which an interested officer was a member:			
	a. Was the fire department a volunteer fire department?			
	b. Was the contract for payment of compensation or payment of retirement benefits?			

Minn. Stat. Section	<b>CONFLICTS OF INTEREST</b>	Yes	No	Workpaper Reference
§ 471.88, subd. 6a	6. Contract with Volunteer Ambulance Service			
	Was the contract with a volunteer ambulance service for the payment of compensation to its members or for payment of retirement benefits to these members?			
§ 471.88, subd. 12	7. Contract for Construction Materials or Services			
	If an interested officer contracted with the County to provide construction materials or services, or both:			
	a. Was the contract done by a sealed bid process?			
	b. Does the County have a population of 1,000 or less according to the last federal census?			
	c. When the question of the contract came before the County Board for consideration, did the officer refrain from voting?			
§ 471.88, subd. 13	8. Contract for Renting Space			
	If a public officer rented space in a public facility, was the rate commensurate with that paid by other members of the public?			
§ 382.18	9. County Officials and Employees			
	<p>Did the county official or employee receive reimbursement from a county for providing licensed or tribally approved family foster care?</p> <p>Or</p> <p>Was the county official or employee a coroner, deputy coroner, coroner's investigator, or medical examiner who received compensation for professional services from a professional corporation or medical provider under contract to provide coroner services in a county?</p>			
§ 382.18	<p>10. Conflicts of Interest: All Other Contracts or Transactions</p> <p>If there were any contracts or transactions between an interested officer and the governing body, were the contracts or transactions included in the exceptions above (B1-9)?</p>			
	<p>Note: If your audit involves a port authority, a public housing authority, a municipal band, a housing and redevelopment authority, an economic development authority, or a community action program or private consultant, review subdivisions 7, 9, 10, 11, or 14 of Minn. Stat. § 471.88 for additional exceptions.</p>			



**COUNTY  
PUBLIC INDEBTEDNESS**

# LEGAL COMPLIANCE AUDIT GUIDE

## PUBLIC INDEBTEDNESS

### Introduction

The power of a county to incur indebtedness is governed by statutory provisions.

Each type of borrowing instrument may be governed by different statutes. Therefore, it is essential that the auditor examine the specific statutes that are applicable to the particular borrowing transaction.

This questionnaire is intended only to highlight certain general provisions of the Minnesota statutes relating to indebtedness and is not intended to cover all questions that may be pertinent.

**Which of the following types of borrowing has the county been involved with during the past year? Please check all forms of borrowing that have either been issued or redeemed during the past year or which are currently outstanding at year-end.**

	During the Year	
	<u>Issued</u>	<u>Outstanding</u>
<b>LONG-TERM BORROWING:</b>		
General Obligation Bonds (Minn. Stat. ch. 475)		
Revenue Bonds (Minn. Stat. ch. 475)		
General Obligation Revenue Bonds (Minn. Stat. ch. 475)		
County Capital Improvement Bonds (Minn. Stat. § 373.40)		

	During the Year	
	<u>Issued</u>	<u>Outstanding</u>
<b>SHORT-TERM BORROWING:</b>		
Loans Funded or Secured Under United States Agriculture Department Programs (Minn. Stat. § 465.73)		
Temporary Improvement Bonds (Minn. Stat. § 429.091, subd. 5)		
Emergency Certificates of Indebtedness (Minn. Stat. § 475.754)		
Certificates of Indebtedness (Minn. Stat. §§ 412.301, 366.095, 123B.61)		
Warrants Not Paid for Want of Funds (Minn. Stat. §§ 385.31, 385.32, 384.13, 385.05, 383A.50)		
Reverse Repurchase Agreements/Securities Lending Agreements (Minn. Stat. § 118A.05)		
Lease Purchase Agreements (Minn. Stat. § 465.71)		
Emergency Debt Certificates (Minn. Stat. § 475.755)		

Minn. Stat. Section	PUBLIC INDEBTEDNESS		Yes	No	Workpaper Reference
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<b>Part I. Answer the following questions with respect to all types of indebtedness that were issued during this fiscal year:</b>					
§ 475.51, et. seq.	A. Was County/Board approval obtained for new debt issued during this fiscal year?				
§ 475.58, subd. 2	B. For debt funding or refunding obligations issued under Minn. Stat. § 475.58, subd. 2:				
	1. Did the entity's outstanding gross debt exceed 1.62 percent of its estimated market value?				
	2. Was a listing of the indebtedness to be funded or refunded prepared by the treasurer and recording officer and filed in the office of the recording officer?				
§ 475.58 subd. 2	3. Was the resolution, stating the amount of bonds to be issued and referring to the listing of indebtedness to be funded or refunded, published in the legal newspaper once each week for two successive weeks?				
	Note: Refunding obligations may be authorized by Minn. Stat. § 475.67 for which the notice required here is not applicable.				
	C. Considering the issuance of the obligations, will the net debt (as defined in Minn. Stat. § 475.51, subd. 4) of the county not exceed the net debt limit as is applicable below:				
§ 475.53, subd. 4	1. Does the net debt not exceed three percent of the estimated market value of taxable property in the county?				
§ 475.58, subd. 1	D. Was the request to issue the obligations submitted for approval at an election?				
§ 475.58, subd. 4	1. If so, were the proceeds only spent:				
	a. (1) for the purposes stated in the ballot language; or (2) to pay, redeem, or defease obligations and interest, penalties, premiums, and costs of issuance of the obligations; and				
	b. were none of the proceeds spent for a different purpose or for an expansion of the original purpose without approval by a majority of the electors voting on the question of changing or expanding the purpose of the obligations?				
§ 475.58, subd. 1	2. If not, was this issuance exempt from approval by the electors for one of the following reasons:				
	It represented an obligation characterized as:				
	a. any unpaid judgment against the county;				
	b. refunding obligations;				

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
	c. an improvement or improvement program, the obligation for which is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program or from tax increments, including obligations which are the general obligations of the county, if the county is entitled to reimbursement in whole or in part from the proceeds of such special assessments or tax increments and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from tax increments.			
	d. an obligation which is payable wholly from the income of revenue producing conveniences;			
	e. an obligation exempt from electoral approval by the terms of the home rule charter;			
	f. exempt under the provisions of a law which permits the issuance of obligations of a municipality without an election;			
	g. an obligation to fund pension or retirement fund liabilities of a county pursuant to Minn. Stat. § 475.52, subd. 6;			
§ 373.40, subd. 2	h. issued under a capital improvement plan under Minn. Stat. § 373.40, where notice was published at least ten but not more than 28 days before the county held a hearing for public comment on issuing the bonds under this section;			
	i. issued under Minn. Stat. §§ 469.1813 to 469.1815 (property tax abatement authority bonds), if the bonds are not used for a purpose prohibited under § 469.176, subd. 4g, para. (b);			
§ 475.58, subd. 1 (10)	j. issued to fund postemployment benefit liabilities pursuant to Minn. Stat. § 475.52, subd. 6, of a county, <u>and</u> were the liabilities limited to:			
	(1) satisfying the requirements of Minn. Stat. § 471.61, subd. 2b (insurance continuation); and			
	(2) other postemployment benefits, which the county no longer provides to employees hired after a date before the obligations are issued?			
§ 475.755	k. issued under Minn. Stat. § 475.755 (emergency debt certificates)?			
§ 475.58, subd. 3a	l. issued to refund existing debt of an indoor ice arena that is used predominantly for youth athletic activity as provided in Minn. Stat. § 475.58, subd. 3a;			
§ 475.58, subd. 3b	m. issued for street reconstruction and bituminous overlays, and were the conditions of Minn. Stat. § 475.58, subd. 3b, met?			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
§ 400.101	n. issued for solid waste management purposes?			
	Examples are:			
	(1) for acquisition or betterment of solid waste facilities, closure, or postclosure;			
	(2) contingency costs, related transmission facilities, or property or property rights for the facilities.			
§ 475.58, subd. 1a	E. If the issuance of obligations for the same purpose and in the same amount has previously been proposed to the electors and voted down, did this election take place at least 180 days after the first election?			
	F. If this is the third request for the same purpose and in the same amount, did this election take place at least one year after the second election?			
§ 475.60, subds. 2 and 3	G. Was the sale of these obligations in accordance with the public notice and public sale requirements of Minnesota statutes?			
§ 475.60, subd. 2	1. If no, was the sale exempt from public sale due to any of the following reasons:			
	a. obligations issued under the provisions of a home rule charter, or under a law specifically authorizing a different method of sale or authorizing them to be issued in such a manner as the council/board may determine;			
	b. obligations sold by the municipality in an amount not exceeding the total sum of \$1,200,000 in any 12-month period;			
	c. except for those issued by a school board, obligations issued in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;			
	d. obligations sold to any board, department, or agency of the United States of America or the State of Minnesota, in accordance with the rules of the board, department, or agency;			
	e. obligations issued to fund pension and retirement fund liabilities under Minn. Stat. § 475.52, subd. 6; obligations issued with tender options under Minn. Stat. § 475.54, subd. 5a; crossover refunding referred to in Minn. Stat. § 475.67, subd. 13; and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in Minn. Stat. § 475.56;			
	f. obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the County Board, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation;			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
	g. obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement;			
	h. obligations sold under a bond reinvestment program; or			
	i. obligations which the County Board determines shall be sold by private negotiation if the municipality has retained an independent municipal adviser?			
§ 475.55, subd. 1	H. Were all obligations signed manually by one officer of the county or by a designated authenticating agent?			
§ 475.65	I. Did the treasurer account for the receipt and disbursement of the proceeds of the issue, for the use named in the resolution, in a separate fund or account in the official financial records of the county?			
§ 475.61, subd. 2, & § 475.62	J. Was the appropriate information reported to the county auditor for all new issues of indebtedness so that the county register could be updated? (Information to include: the purpose and date of the issue; the number, denomination, interest rate, and maturity date of each bond; place and time of payment of principal and interest; and the amount of the tax levied for the payment thereof.)			
§ 471.69	K. Limitation on Outstanding Warrants and Orders			
	1. Did the county <u>not</u> contract debt, or issue any warrant or order in anticipation of taxes levied or to be levied, in excess of:			
	- the average amount actually received from tax collections for the last three years, plus			
	- ten percent?			
	The Minn. Stat. § 471.69 limitations do not apply to government entities wherein the mineral net tax capacity exceeds 25 percent of its net tax capacity			

**Part II. Answer only the questions below that relate to the specific types of debt that were issued during the current fiscal year:**

§ 475.61, subd. 1	A. GENERAL OBLIGATION BONDS:			
	1. Did the county, prior to delivery of the obligations, levy by resolution a direct general ad valorem tax upon all taxable property to be spread each year of the obligations?			
	2. Were the levies specified and such that if collected in full they, together with estimated collections of special assessments and other revenues pledged for payment of the obligations, will produce at least five percent in excess of the amount needed to meet the principal and interest payments on the obligations when due?			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
§ 373.01, subd. 3	<b>B. CAPITAL NOTES:</b>			
	1. Were the capital notes issued within applicable county debt limits?			
	2. Were the notes issued for “capital equipment,” i.e., public safety equipment, ambulance, and other medical equipment, road construction or maintenance equipment, and computer hardware and software, whether bundled with machinery or equipment or unbundled together with application development services and training related to the use of the computer hardware or software, having an expected useful life at least equal to the term of the notes?			
	3. Were the notes payable in ten or less years?			
	4. Was a tax levy made, in accordance with Minn. Stat. § 475.61, for the payment of principal and interest on the notes?			
	5. Did the County Board, by resolution, issue the notes?			
§ 465.73	<b>C. USDA RURAL BUSINESS-COOPERATIVE SERVICE, RURAL HOUSING SERVICE, OR OTHER AGENCY OF THE USDA: (For town halls, fire halls, and fire equipment only, or libraries or child care facilities if otherwise authorized by law.</b>			
	1. Is the amount borrowed from the USDA Rural Business-Cooperative Service, Rural Housing Service, or other USDA agency, within the \$450,000 statutory limit?			
§ 475.754	<b>D. EMERGENCY CERTIFICATES OF INDEBTEDNESS:</b>			
	1. Do the certificates of indebtedness mature within three years?			
	2. Do the certificates of indebtedness bear interest at a rate not in excess of the allowable rate?			
	3. Are the certificates and interest thereon payable from taxes levied within existing limitations or from other available revenue?			
§ 471.3455	<b>E. PUBLIC SAFETY EQUIPMENT - Certificates of indebtedness or capital notes to acquire new or used public safety equipment by lease.</b>			
	- “Public Safety Equipment” means vehicles and specialized equipment used by a fire department in firefighting, ambulance and emergency medical treatment services, rescue, and hazardous materials response.			
	- If the County issued certificates of indebtedness or capital notes to acquire new or used public safety equipment by lease, did the term not exceed 15 years?			

Minn. Stat. Section	PUBLIC INDEBTEDNESS	Yes	No	Workpaper Reference
§ 385.31	F. WARRANTS			
	1. If any warrants were presented for payment to the county treasurer when there were insufficient funds in the proper account to pay the warrants:			
	a. Were warrants paid when sufficient funds became available in the order of their registration, and			
	b. Were all warrants numbered and registered in the order of presentation?			
	2. If warrants were presented when there were sufficient funds available for payment, did the county treasurer redeem the same and write:			
	a. across the entire face of the warrant the word “redeemed,”			
	b. the date of the redemption, and			
	c. his or her official signature?			
	3. If the county treasurer borrowed money from another fund to pay a warrant presented when there was insufficient money in the account upon which the warrant was drawn, was one of the following conditions met?			
	a. The county had an estimated market value of taxable property of not less than \$1,033,000,000, and the money was returned to the lending fund as soon as it became available in the borrowing fund, or			
§ 385.32	b. The county had an estimated market value of taxable property less than \$1,033,000,000, the treasurer obtained the approval of the County Board and county auditor, and the money was returned to the lending fund as soon as it became available in the borrowing fund and, in any event, within six months?			
§ 475.755	G. EMERGENCY DEBT CERTIFICATES			
	<ul style="list-style-type: none"> <li>- If at any time during a fiscal year the receipts of a county are reasonably expected to be reduced below the amount provided in the county’s budget when the final property tax levy to be collected during the fiscal year was certified and the receipts are insufficient to meet the expenses incurred or to be incurred during the fiscal year, the County Board may authorize and sell certificates of indebtedness to mature within two years or less from the end of the fiscal year in which the certificates are issued.</li> <li>- The maximum principal amount of the certificates that it may issue in a fiscal year is limited to the expected reduction in receipts plus the cost of issuance. The certificates may be issued in the manner and on the terms the County Board determines by resolution.</li> </ul>			
	1. If emergency debt certificates were issued, was the maturity date within two years of the end of the fiscal year in which they were issued?			
	2. Was the principal amount of the certificates limited to the expected reduction in receipts plus the cost of issuance?			
	3. Did the County Board levy taxes for the payment of principal and interest on the certificates in accordance with § 475.61?			



**COUNTY  
CONTRACTING - BID LAWS**

# LEGAL COMPLIANCE AUDIT GUIDE

## CONTRACTING - BID LAWS

### Introduction

A county entering into an agreement for the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property must abide by the statutes relating to contracting and bidding. In addition, for counties, such statutory requirements also apply to contracts for “work or labor.”

Complete the questionnaire to determine if the county conformed to the contracting and bidding statutes.

Minnesota Statutes § 471.345, the Uniform Municipal Contracting Law, was established to provide dollar limits for all municipalities upon contracts which shall or may be entered into on the basis of competitive bids, quotations, or purchase or sale in the open market. Vendors may now submit bids, quotations, and proposals electronically in a form and manner required by the municipality. Minn. Stat. § 471.345, subd. 18. Generally, the following thresholds apply:

1. For contracts over \$175,000 - sealed bids, solicited by public notice and subject to the particular requirements of the governmental subdivision.
2. For contracts from \$25,000 to \$175,000 - sealed bids or direct negotiation, with two quotations whenever possible.
3. For contracts of \$25,000 or less - open market or quotations (with at least two contract quotations, if practicable).

In addition, Minn. Stat. § 471.345, subs. 16 and 17, allow counties to purchase supplies, materials, and equipment using an electronic reverse auction process; and to sell supplies, materials, and equipment which is surplus, obsolete, or unused using an electronic selling process.

Best value procurement is a process based on competitive proposals (as an alternative to bids) that awards the contract to “the vendor or contractor offering the best value, taking into account the specifications of the request for proposals, the price and performance criteria as set forth in [Minn. Stat. § 16C.28, subd. 1b] and described in the solicitation document.” Minn. Stat. § 16C.28, subd. 1(a)(2). Before administering best value procurement procedures, personnel must be trained in the best value RFP process. *See* Minn. Stat. § 16C.28, subd. 1d.

Another alternative to bidding is the “construction manager at risk” contract available for contracts for construction, alteration, repair, or maintenance work. The process of selection of a construction manager at risk as well as the requirements of a construction manager at risk contract are set forth in Minn. Stat. § 471.463.

Minnesota Statutes § 471.3457 authorizes counties to implement programs to provide bid preferences to designated veteran-owned small businesses, as provided in Minn. Stat. § 375.771, in awarding service contracts and contracts as defined in Minn. Stat. § 471.345.

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
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Part I. Uniform Municipal and Contracting Law				
	A Generally, for all municipalities:			
§ 471.345	The estimated contract amount determines whether sealed bids or quotations are required. Vendors may submit bids, quotations, and proposals electronically in a form and manner required by the municipality.			
	1. Contracts over \$175,000 (sealed bids or best value procurement)			
	a. Sealed bids			
§ 471.345, subd. 3	(1) Have all contracts estimated to exceed \$175,000 been let on sealed bids?			
	(2) Have the bids been solicited by public notice?			
Minn. Stat. §§ 15.17, 138.17	(3) Were bids preserved and on file if the appropriate records retention period has not expired? (See Introduction section entitled "Destruction of Records," pages iii - iv, and the county's records retention schedule.)			
Minn. Stat. §§ 375.21, subd. 1b; and 471.345, subds. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, sub. 1	If a best value procurement procedure was used as an alternative:			
Minn. Stat. §§ 375.21, subd. 1b and 471.345, subds. 3a, 4a, and 5	(1) Was the contract a contract for construction, building, alteration, improvement, repair, or maintenance?			
§ 16C.28, subd. 1(c)	(2) Did the solicitation document state the relative weight of price and other selection criteria?			
	(3) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?			
	(4) If an interview of the vendor's or contractor's personnel was one of the selection criteria, was the relative weight of the interview stated in the solicitation document and applied accordingly? Minn. Stat. § 16C.28, subd. 1(c) (2008).			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
Minn. Stat. § 471.35, subd. 2	c. Construction manager at risk alternative.			
Minn. Stat. § 471.463	If a construction manager at risk procurement procedure was used as an alternative:			
	(1) Was the contract for the construction, alteration, repair, or maintenance work in excess of \$175,000?			
	(2) Was a solicitation of qualifications prepared for each construction manager that contained at least the following:			
	(a) procedures for submitting qualifications, the criteria and subcriteria for evaluating the qualifications and the relative weight for each criteria and subcriteria, and the procedures for making awards in an open, competitive, and objective manner, applying a scoring or trade-off evaluation method, including a reference to the requirements of this section;			
	(b) the proposed terms and conditions for the contract;			
	(c) the desired qualifications of the construction manager at risk;			
	(d) the schedule for commencement and completion of the project;			
	(e) any applicable budget limits for the project;			
	(f) the requirements for insurance and statutorily required performance and payment bonds; and			
	(g) the identification and location of any other information in the possession or control of a municipality that the municipality determines is material, including surveys, soil reports, drawings or models of existing structures, environmental studies, photographs, or references to public records.			
	(3) Was the Notice of requests for qualifications advertised in a manner designated by the municipality?			
	(4) Did the municipality create a selection committee composed of at least three persons, at least one of whom has construction industry expertise?			
	(5) Did the selection committee review the qualification of each proposer and create a short list of two to five proposers?			
	(6) If the municipality did not receive at least two proposals from the construction managers, did it:			
	(a) solicit new proposals,			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(b) revise the request for qualifications, and then solicit new proposals using the revised request for qualifications,			
	(c) select another procurement method, or			
	(d) reject all proposals?			
	(7) Did the municipality then issue a request for proposals requiring cost and other information from the short-listed proposers?			
	(8) Did the municipality enter into a guaranteed maximum price contract with the construction manager at risk?			
	2. Contracts from \$25,000 to \$175,000 can be made on sealed bids, by direct negotiation based on quotations, or through best value procurement.			
§ 471.345, subd. 4	a. Sealed bids or quotations			
	(1) Have contracts estimated to exceed \$25,000 but not to exceed \$175,000 been let on sealed bids or negotiated quotes?			
	(2) If sealed bids were used, were the requirements of A.1. met?			
	(3) If quotations were used and obtaining two or more quotes was possible, were two or more quotes obtained?			
	(4) If quotations were used, were the quotations kept on file for at least one year?			
Minn. Stat. §§ 375.21, subd. 1b; and 471.345, subds. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, subd. 1	If a best value procurement procedure was used as an alternative:			
Minn. Stat. §§ 375.21, subd. 1b; and 471.345, subds. 3a, 4a, and 5	(1) Was the contract a contract for construction, building, alteration, improvement, repair, or maintenance?			
§ 16C.28, subd. 1(c)	(2) Did the solicitation document state the relative weight of price and other selection criteria?			
	(3) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(4) If an interview of the vendor's or contractor's personnel was one of the selection criteria, was the relative weight of the interview stated in the solicitation document and applied accordingly? Minn. Stat. § 16C.28, subd. 1(c) (2008).			
	3. Contracts estimated to be \$25,000 or less may be made either upon quotation, in the open market, or through best value procurement.			
§ 471.345, subd. 5	a. If quotations were used, are they on file?			
Minn. Stat. §§ 375.21, subd. 1b; and 471.345, subs. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, subd. 1	If a best value procurement procedure was used as an alternative:			
Minn. Stat. §§ 375.21, subd. 1b; and 471.345, subs. 3a, 4a, and 5	(1) Was the contract a contract for construction, building, alteration, improvement, repair, or maintenance?			
§ 16C.28, subd. 1(c)	(2) Did the solicitation document state the relative weight of price and other selection criteria?			
	(3) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?			
	(4) If an interview of the vendor's or contractor's personnel was one of the selection criteria, was the relative weight of the interview stated in the solicitation document and applied accordingly? Minn. Stat. § 16C.28, subd. 1(c).			
§ 471.345, subd. 16	B. Reverse Auction Purchase			
	If the county contracted to purchase using an electronic purchasing process:			
	1. Was the purchase a purchase of supplies, materials, or equipment, and <u>not</u> a contract for services or a service contract as defined in Minn. Stat. §§ 16C.02, subs. 16 and 17; and			
	2. Was the electronic process a purchasing process in which vendors competed to provide the supplies, materials, or equipment at the lowest selling price in an open and interactive environment?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 471.345, subd. 17	C. Electronic Sale			
	If the county contracted to sell using an electronic selling process:			
	1. Was the sale a sale of supplies, materials, or equipment which was surplus, obsolete, or unused; and			
	2. Was the electronic process a selling process in which purchasers competed to purchase the surplus supplies, materials, or equipment at the highest purchase price in an open and interactive environment?			
§ 331A.12	D. Website publication - Transportation Contracts  [For Transportation contracts, publication on the website may be used in place of or in addition to any other required form of publication, if certain requirements are met.]			
	If publication on the website was used in place of other required forms of publication:			
	1. Did the County Board designate this manner of publication (on the county's website) at the meeting at which it designated its official newspaper?			
	2. Had the county annually published notice (in a qualified newspaper and on the website) that the political subdivision would publish any advertisements for bids on its website?			
	3. Did the county post the information on its website in substantially the same format and for the same period of time as required for publication in an official newspaper or other print publication?			
	4. Did the county ensure that a permanent record of publication is maintained in a form accessible by the public?			
§ 331A.03, subd. 3	E. Alternative Dissemination of Bids and Requests			
	If, as an alternative to publishing them in a newspaper, a county disseminated solicitations of bids, requests for information or requests for proposals by using a website or recognized industry trade journals:			
	1. Did the county simultaneously publish, either in minutes or separately, in a notice published in the official newspaper, a description of all solicitations or requests so disseminated, along with the means by which the disseminations occurred?			
	2. Was the dissemination by alternative means in substantially the same format and for the same period of time as a publication in a qualified newspaper?			
	3. For the first six months after the county designated an alternative means of dissemination, did it continue to publish solicitation of bids, requests for information, and requests for proposals in the official newspaper in addition to the alternative method?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	4. Did the publication in the official newspaper indicate where to find the designated alternative method?			
§ 331A.01, subd. 11	Note: "Recognized industry trade journal" means a printed or digital publication or website that contains building and construction news of interest to contractors in this state, or that publishes project advertisements and bids for review by contractors or other interested bidders in its regular course of business.			
§ 471.345, subd. 5a	F. County or town contracts for the rental of equipment estimated to be \$60,000 or less may, at the discretion of the board, be made by direct negotiation by obtaining two or more quotations when possible. If this method was used, were quotations kept on file for at least one year?			
§ 471.345, subd. 15	G. If the county contracted for the purchase of supplies, materials, or equipment without regard to competitive bidding requirements, was the purchase through the State of Minnesota's cooperative purchasing venture or a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations?			
§ 471.345, Subd. 15	H. For each contract for the purchase of supplies, materials, or equipment over \$25,000, did the county consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture before purchasing through another source			
	Note: Exceptions to the competitive bidding requirements of Minn. Stat. § 471.345 exist for water tank service contracts, procurement from economically disadvantaged persons, shared hospital or ambulance service purchasing, fuel contracts for generation of municipal power, procurement from rehabilitation facilities, energy efficient projects, contracts with small businesses under a county program, contracts with businesses certified as veteran or disabled veteran businesses by the Commissioner of Administration, and solid waste contracts. If a contract you audit falls into one of these categories, review the relevant exceptions to see if its criteria are met. <i>See</i> Minn. Stat. §§ 471.345, subs. 5b, 8, 10, 11, 12, 13, 19, and 20; and 400.04.			
§ 16C.285	I. Responsible Contractor Requirement  For each construction contract in excess of \$50,000, awarded pursuant to a lowest responsible bidder or best value process, did the successful contractor submit a verification of compliance signed under oath by an owner or officer verifying compliance with the minimum criteria set forth in Minn. Stat. § 16C.285, subd. 3 (with the exception of clause (7), as required by Minn. Stat. § 16C.285, subd. 4?			
§ 471.35	J. Other Considerations			
	1. Specifications on contracts. If sealed bids were solicited, were the specifications written so as not to exclude all but one type or kind of supplies or equipment?			
	2. Interest in contract. ( <i>See</i> Conflicts of Interest Section, page 2-1.)			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 574.26	3. Contractor's performance and payment bonds. Contractors doing public work are required to give both a performance bond and a payment bond in an amount not less than the contract price if the contract is more than \$175,000.			
	a. Were bonds received for all contracts greater than \$175,000?			
	b. Were the amounts sufficient?			
§ 574.261, subd. 1a	Note: If the project is under \$50,000, contractor may provide for irrevocable bank letter of credit in place of a performance bond provided the letter of credit is subject to the same conditions as a performance bond.			
§ 471.6161	K. Group Insurance			
	Any county that provides group insurance for 25 or more employees must comply with certain bidding requirements in contracting for or renewing said insurance.			
§ 43A.316, subd. 10	Note: Counties participating in the public employee insurance program are exempt from the bidding requirements of Minn. Stat. § 471.6161. If this exemption does <u>not</u> apply:			
	1. Was the request for proposals (RFP) in writing?			
	2. Did the RFP include:			
	a. the coverage to be provided;			
	b. the criteria for evaluation of proposals; and			
	c. the aggregate claims record for the appropriate period?			
	3. Was the RFP notice placed in a newspaper or trade journal at least 21 days before the final date for submitting proposals?			
	4. Was a written rationale explaining the county's decision prepared prior to entering into a contract?			
	5. Was the term of the contract five years or less, including extensions?			
§ 471.3455	L. Public Safety Equipment Purchase or Lease			
	If equipment was acquired by the county pursuant to this statute without competitive bidding or proposals:			
	1. Was the public safety equipment <u>used, and</u>			
	2. was the equipment "public safety equipment," defined as vehicles and specialized equipment used by a fire department, as defined in Minn. Stat. § 299N.01, subd. 2, in firefighting, ambulance and emergency medical treatment services, rescue, and hazardous materials response, <u>and</u>			
	3. was the equipment clearly and legitimately limited to a single source of supply?			

Minn. Stat. Section	CONTRACTING - BID LAWS		Yes	No	Workpaper Reference
§ 471.425, subd. 4a	<p>M. Did each contract between the county and a prime contractor require the prime contractor to pay subcontractors within ten days of receipt of payment from the government entity or pay interest at the rate of 1½ percent per month or any part of a month?</p>				
<p>§ 15.72 (See also § 541.051, subd. 1(a))</p>	<p>N. Retainage</p> <p>For a contract for public improvement, a public contracting agency may withhold up to five percent of any progress payment as retainage to ensure satisfactory performance. If it does so, it must release the retainage no more than 60 days after substantial completion.</p> <p>“Substantial completion” is the date when construction is sufficiently completed so that the owner can occupy or use the improvement for the intended purpose. For streets, highways, and bridges, “substantial completion” is defined as the date when construction-related traffic devices and ongoing inspections are no longer required.</p> <p>The public contracting agency is permitted to continue to withhold the following two amounts even after the 60-day period:</p> <ol style="list-style-type: none"> <li>1. up to 250 percent of the cost to correct or complete work known at the time of substantial completion, and</li> <li>2. the greater of \$500 or one percent of the value of the contract pending submission of final paperwork.</li> </ol> <p>The first amount must be released within 60 days of work completion. The second must be released within 60 days of submission of final paperwork.</p>				
	<p>If the county withheld retainage in a contract for public improvement, did it release the retainage 60 days after substantial completion, except for those amounts permitted to be withheld to complete or correct work, and for final paperwork?</p>				
§ 270C.66	<p>O. Withholding Affidavit/Certificate</p>				
	<p>Before making final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor and by subcontractors, did the county obtain a certificate by the Commissioner of Revenue that the contractor or subcontractor has complied with the withholding requirements of Minn. Stat. § 290.92 (either Form IC134 or a Contractor’s Withholding Affidavit Confirmation)?</p>				

**Part II. Laws Relating Specifically to Counties**

	<p>A. Contracts formally bid</p>			
§ 375.21	<p>1. Advertisement for Bids. (For sales of personal property, <i>see</i> 2 below.) If the contract was awarded by bidding:</p>			
	<p>a. Were bids advertised for in a qualified legal newspaper of the county? (For alternative methods, <i>see</i> section I.D. above.)</p>			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	b. If the contract is for the purchase of property or for work and labor, was the public notice, stating time and place for bids, published two weeks prior to the deadline?			
§ 160.17	c. If the contract is for the construction or repair of roads, bridges, or buildings, was the public notice, stating time and place for bids, published three weeks prior to the deadline?			
	d. Did the published notice include the time and place of awarding the contract?			
	e. Did the published notice include a brief description of the work?			
§ 373.01, subd. 1(c)	2. Advertisement for bids or proposals - sale of personal property \$15,000 or more.			
	a. If the county sold personal property, the value of which is estimated to be \$15,000 or more:			
	(1) Were bids or contracts in the county's official newspaper, on the county's website, or in a recognized industry trade journal?			
	(2) If the county posted on its website or published in a trade journal, did the county publish, either in minutes or separately, in the official newspaper a summary of all requests for bids or proposals that the county advertises on its website or in the trade journal?			
	(3) Did the county publish in the official newspaper, on the website, or in a trade journal before it solicited or accepted bids or proposals by the electronic selling process authorized in Minn. Stat. § 471,345, subd. 17?			
§ 375.21, subd. 1	3. Awarding the Contract. (For contracts awarded by bidding.)			
	a. Was the contract awarded to the lowest responsible bidder?			
§ 15.17	b. If the contract was not awarded to the lowest bidder, were reasonable and appropriate reasons documented in the minutes?			
§ 15.17	c. Were the names of the bidders and the amount of the bids put on record?			
	d. Was the contract executed in writing?			
See also § 574.26	e. If the contract involved work and labor for the construction or repair of roads, bridges, or buildings, was a faithful performance bond received from the contractor?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 375.21	4. Emergency Exceptions to bidding			
	a. In the case of an emergency arising from the destruction or impassability of roads or bridges by floods, rain, or snow, or other casualty, or the breaking or damaging of any property in the county if the public health, safety, or welfare would suffer by delay, contracts for purchase or repairs may be made without advertising for bids but, in that case, the action of the board shall be recorded in its official proceedings.			
	b. In the case of an emergency arising from breakage, damage, or decay in county property that cannot be allowed to wait for the time required to advertise for bids, repairs may be made without advertising for bids if the work is authorized by a majority of the board of county commissioners and the action is ratified and recorded in the official proceedings of the board at its next meeting.			
	c. If any emergency exceptions were taken by the county, were the required board actions recorded in the official proceedings?			
§ 373.01, subd. 1	5. Sale of Real Property.			
	a. If the county sold real property by advertising for bids:			
	(1) Were bids advertised for in the official newspaper of the county for three consecutive weeks? (For alternative methods, <i>see</i> section I.D., above.)			
	(2) Were bids advertised at least once in a newspaper of general circulation in the area where the property is located?			
	(3) Did the notice contain the time and place for considering proposals as well as a legal description of the real property involved?			
	(4) Was the real property sold to the highest bidder?			
	If no, were reasons documented in the minutes and were the reasons stated reasonable and appropriate?			
	b. If the county employed a broker to sell the property;			
	(1) Had the property remained unsold after advertising for and consideration of bids or proposals?			
	(2) Did the broker sell the property for not less than 90 percent of its appraised market value as determined by the county?			
	(3) Was the broker's fee paid from the proceeds of the sale, and did it not exceed ten percent of the sale price?			



**COUNTY  
CLAIMS AND DISBURSEMENTS**

## **LEGAL COMPLIANCE AUDIT GUIDE**

### **CLAIMS AND DISBURSEMENTS**

#### Introduction

Municipal transactions involving an account, claim, or demand made for any property or service which can be itemized in the ordinary course of business and disbursements of municipal funds are covered in this section.

“Municipality” for the purposes of this section includes a county, local social services agency, County Board of education for unorganized territory, or park district.

In addition, Minn. Stat. § 471.425 (Prompt Payment of Local Government Bills), applies to any county.

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
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<b>Part I. General Provisions</b>				
§ 471.38, subd. 1	A. Has every person, or the person's agent, claiming payment provided an itemized list in writing or electronic transaction record?			
§ 471.38, subd. 2	Note: This section does not apply to any claim or demand for an annual salary or fees of jurors or witnesses, fixed by law, nor to the salary or wages of any employee whose salary or wages have been fixed on an hourly, daily, weekly, or monthly basis, by the governing board of the municipality, and which is now authorized by law to be paid on a payroll basis.			
§ 471.425, subd. 2	B. Prompt Payment of Local Government Bills			
	- Standard payment period is:			
	- 35 days from receipt for County Boards that meet at least once a month;			
	- 45 days from receipt of goods or services or invoice, whichever is later, for County Boards that do not meet at least once per month; and			
	- 45 days from receipt for joint powers entities.			
§ 471.425, subd. 2	1. Were all bills paid within the time period set by the terms of the contract or within the standard payment period?			
§ 471.425, subd. 4	- The county must pay interest on bills not paid in a timely manner. The interest rate is 1½ percent per month or part of a month. The minimum monthly interest on a bill of \$100 or more is \$10.			
§ 471.425, subd. 4	2. For bills paid after the time period set by the contract or the standard payment period, did the county calculate and pay interest as required by law?			
	Note: The interest penalties in these questions do not apply to good faith disputes.			

<b>Part II. Electronic Wire Transfer</b>				
§§ 471.38, subds. 3 and 3a	A. Counties may make electronic funds transfers under certain conditions.			
	1. A county may make electronic funds transfers for:			
	a. a claim for payment from an imprest payroll bank account or investment of excess money;			
	b. payment of tax or aid anticipation certificates;			
	c. payment of contributions to a pension or retirement fund;			
	d. vendor payments; and			

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
	e. payment of bond principal, bond interest, and a fiscal agent service charge from the debt redemption fund.			
	B. Did the county use electronic funds transfers only for the above enumerated transactions?			
	C. Did the county enact a plan containing the following policy controls requiring:			
	1. annual delegation of authority to make electronic funds transfers to a chief financial officer or the officer's designee?			
	2. the disbursing bank to keep a certified copy of delegation of authority?			
	3. identification of the initiator of each electronic transfer?			
	4. the initiator to document the request and obtain approval for each transfer from the chief financial officer or the officer's designee, before initiating the transfer, as required by the internal control policies?			
	5. written confirmation of each transaction within one business day?			
	6. a list of transactions to be submitted to the board at the next regular meeting after the transaction?			
§ 471.381	D. If the county used electronic identifiers for electronic or wire transfers:			
	1. Were the electronic identifiers used to authenticate or validate this government action approved by the County Board?			
	2. Had the county established policies and procedures to ensure the validity of the electronic approvals?			
§ 385.071	3. Did the County Board establish policies and procedures for investment and expenditure transaction by electronic transfer?			

Part III. Claims and Disbursements				
§ 384.13	For all disbursements made on warrants:			
	A. Was the claim paid by the county treasurer upon allowance of the County Board, upon the warrant of the board chair, attested by the county auditor, <u>or</u> ?			
	B. Was the claim paid upon the warrant of the auditor, upon the proper certificate of the person, officer, or tribunal allowing the claim in cases in which the precise amount was fixed by law, or authorized to be fixed by some other person, officer, or tribunal?			
	C. If the county population was 150,000 or less, was each warrant so drawn that when signed by the treasurer it comes a check on the county depository?			

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
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<b>Part IV. Delegation of Authority to Pay Claims</b>				
§ 375.18, subd. 1b	A. Did the County Board delegate its authority to pay certain claims made against the county by adopting a resolution authorizing a specified county administrative official to pay the claims that meet the standards and procedures establish by the County Board?			
	B. Does the County Board have adequate internal accounting and administrative control procedures to ensure the proper disbursement of public funds, including regular and frequent review of the county administrative officials' actions by the board?			
	C. Was a list of all claims paid under the procedures established by the County Board presented to the board at the next regularly scheduled meeting after payment of the claims? and			
	Is the county not a home rule charter county for which the county charter provides an alternative method of paying claims?			

<b>Part V. Client-Directed Support Program</b>				
§ 375.18, subd. 1c	A. If the county has implemented a client-directed support program that authorizes responsible parties for county human services and public health clients to expend public funds for the benefit of the clients without complying with Minn. Stat. §§ 375.18, sub. 1b; 384.13; 471.38; or 471.391?			
	1. Was the program implemented by the County Board upon approval by the department of human services??			
	2. Does the County Board have internal accounting and administrative control procedures to ensure proper disbursement of public funds?			
	3. Do these procedures include county-owned deposit accounts and periodic review of the program by the County Board?			

§ 375.171 <b>Part VI. Credit Card Purchases</b>				
	A. If a county officer or employee made a purchase on behalf of the county by credit card:			
	1. Had the County Board authorized the use of the credit card by the officer or employee;			
	2. Was the officer or employee otherwise authorized to make a purchase on behalf of the county; and			
	3. Did the purchase otherwise comply with all statutes, rules, or county policies applicable to county purchases?			
	B. If a county officer or employee made a purchase by credit card that was not approved by the County Board, was the officer or employee held personally liable for the amount of the purchase?			



**County**  
**Examples of Independent Auditor's Reports**

## Legal Compliance Audit Guide

### Examples of Independent Auditor's Reports

Minnesota Legal Compliance Counties – <i>Government Auditing Standards</i>	6-2
Combined Report Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	6-4

Independent auditor's report for *counties* conducted under *Government Auditing Standards*. (Note: Eliminate this paragraph in red before issuing the report. Professional guidance can be found at AU-C 806.)

## Minnesota Legal Compliance

### Independent Auditor's Report

(County Board)  
(County)

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of (*list related opinion units*) of (*county name*) as of and for the year ended December 31, 2025, and the related notes to the financial statements, which collectively comprise the County's basic financial statements, and have issued our report thereon dated \_\_\_\_\_.

In connection with our audit, nothing came to our attention that caused us to believe that (*county name*) failed to comply with the provisions of the contracting – bid laws, depositories of public funds and public investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and tax increment financing (*delete sections not required to test*) sections of the *Minnesota Legal Compliance Audit Guide for Counties*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, insofar as they relate to accounting matters. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the County's noncompliance with the above referenced provisions, insofar as they relate to accounting matters.

- If legal compliance findings are reported, use the following wording:

In connection with our audit, we noted that (*county name*) failed to comply with provisions of the (*list section titles of guide in which noncompliance was identified*) of the *Minnesota Legal Compliance Audit Guide for Counties*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, insofar as they relate to accounting matters as described in the (*schedule name where findings are listed*) as items (*list related finding reference numbers*). Also, in connection with our audit, nothing came to our attention that caused us to believe that (*county name*) failed to comply with the provisions of the contracting – bid laws, depositories of public funds and public investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and tax increment financing (*delete sections not required to test & delete any section titles that identified reported findings*) sections of the *Minnesota Legal Compliance Audit Guide for Counties*, insofar as they relate to accounting matters. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the County's noncompliance with the above referenced provisions, insofar as they relate to accounting matters.

*Government Auditing Standards* requires the auditor to perform limited procedures on the (*county name*)'s response to the legal compliance findings identified in our audit and described in the accompanying (*name of report where the responses/corrective action plans are included*). The County's response was not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

**[Leave out if no findings and no responses are included.]**

The purpose of this report is solely to describe the scope of our testing of compliance and the results of that testing, and not to provide an opinion on compliance. Accordingly, this communication is not suitable for any other purpose.

(Signature)

(Date)

Auditor's internal control and compliance report based on an audit of financial statements performed in accordance with *Government Auditing Standards* and the *Minnesota Legal Compliance Audit Guide for Counties*. (Note: Eliminate this paragraph in red before issuing the report.)

**Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards***

Independent Auditor's Report

(County Board)

(County)

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of (*list related opinion units*) of (*county name*) as of and for the year ended December 31, 2025, and the related notes to the financial statements, which collectively comprise the County's basic financial statements, and have issued our report thereon dated \_\_\_\_\_.

**Report on Internal Control Over Financial Reporting\***

In planning and performing our audit of the financial statements, we considered (*county name*)'s internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County's internal control over financial reporting.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the County's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit the attention of those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. However, material weaknesses or significant deficiencies may exist that have not been identified.

**Report on Compliance and Other Matters\*\***

As part of obtaining reasonable assurance about whether *(county name)*'s financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

### **Minnesota Legal Compliance**

In connection with our audit, nothing came to our attention that caused us to believe that *(county name)* failed to comply with the provisions of the contracting – bid laws, depositories of public funds and public investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and tax increment financing (*delete sections not required to test*) sections of the *Minnesota Legal Compliance Audit Guide for Counties*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, insofar as they relate to accounting matters. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the County's noncompliance with the above referenced provisions, insofar as they relate to accounting matters.\*\*\*

### **[County Name]'s Response to Findings**

*Government Auditing Standards* requires the auditor to perform limited procedures on the *(county name)*'s response to the internal control and legal compliance findings (*adjust as necessary for what they responded to*) identified in our audit and described in the accompanying (*name of report where the responses/corrective action plans are included*). The County's response was not subjected to the other auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the response.

**[Leave out if no findings and no responses are included.]**

### **Purpose of This Report**

The purpose of this report is solely to describe the scope of our testing of internal control over financial reporting and compliance, and the provisions of the *Minnesota Legal Compliance Audit Guide for Counties* and the results of that testing, and not to provide an opinion on the effectiveness of the County's internal control over financial reporting or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the County's internal control over financial reporting and compliance. Accordingly, this communication is not suitable for any other purpose.

(Signature)

(Date)

\*Paragraphs to be used when no significant deficiencies or material weaknesses are identified.

- If significant deficiencies, but no material weaknesses, are identified, use the following wording:

In planning and performing our audit of the financial statements, we considered *(county name)*'s internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County's internal control over financial reporting.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the County's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit the attention of those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. Given these limitations, during our audit, we did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses. We identified certain deficiencies (**a deficiency**) in internal control over financial reporting, described in the accompanying *(schedule name where findings are listed)* as items *(list related finding numbers)*, that we consider to be significant deficiencies (**a significant deficiency**).

- If material weaknesses and no significant deficiencies are identified, use the following wording:

In planning and performing our audit of the financial statements, we considered *(county name)*'s internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County's internal control over financial reporting.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the County's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit the attention of those charged with governance.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. We identified certain deficiencies (**a deficiency**) in internal control over financial reporting, described in the accompanying

*(schedule name where findings are listed)* as items *(list related finding numbers)*, that we consider to be material weaknesses **(a material weakness)**.

- If material weaknesses and significant deficiencies are identified, use the following wording:

In planning and performing our audit of the financial statements, we considered *(county name)*'s internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the County's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying *(schedule name where findings are listed)*, we identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses **(a material weakness)** and significant deficiencies **(a significant deficiency)**.

A deficiency in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the County's financial statements will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies **(deficiency)** described in the accompanying *(schedule name where findings are listed)* as items *(list related finding numbers)* to be material weaknesses **(a material weakness)**.

A significant deficiency is a deficiency, or combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies **(deficiency)** described in the accompanying *(schedule name where findings are listed)* as items *(list related finding numbers)* to be significant deficiencies **(a significant deficiency)**.

**\*\*Paragraph to be used when there are no reportable instances of noncompliance or other matters.**

- If instances of noncompliance are reported, use the following wording:

As part of obtaining reasonable assurance about whether *(county name)*'s financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the financial statements. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*, and which are described in the accompanying *(schedule name where findings are listed)* as items *(list related finding numbers)*.

\*\*\*Paragraph when there are no legal compliance findings.

- If legal compliance findings are reported, use the following wording:

In connection with our audit, we noted that *(county name)* failed to comply with provisions of the *(list section titles of guide in which noncompliance was identified)* of the *Minnesota Legal Compliance Audit Guide for Counties*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, insofar as they relate to accounting matters as described in the *(schedule name where findings are listed)* as items *(list related finding reference numbers)*. Also, in connection with our audit, nothing came to our attention that caused us to believe that *(county name)* failed to comply with the provisions of the contracting – bid laws, depositories of public funds and public investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and tax increment financing *(delete sections not required to test & delete any section titles that identified reported findings)* sections of the *Minnesota Legal Compliance Audit Guide for Counties*, insofar as they relate to accounting matters. However, our audit was not directed primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the County’s noncompliance with the above referenced provisions, insofar as they relate to accounting matters.

**COUNTY  
MISCELLANEOUS PROVISIONS**

# LEGAL COMPLIANCE AUDIT GUIDE

## MISCELLANEOUS PROVISIONS

### Introduction

This checklist, “County Miscellaneous Provisions” must be completed by auditors in the course of each audit of a county. It contains provisions that do not fit squarely into the other checklists.

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
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**Part I. Provisions Specific to Counties**

§ 375.055	A. County Board Salary and Per Diem Resolution			
	1. Did the County Board set the commissioners' annual salaries and per diem schedule in a resolution before January 1 of the year in which the salary becomes effective,* and did the resolution contain a statement of the salary as an annual dollar amount?  (Except resolutions to <u>decrease</u> commissioners' salaries or per diems; such resolutions may take effect at any time.)			
	2. Did members of the County Board <u>not</u> receive a per diem for service on the board of auditors, the board of equalization, or the canvassing board?			
Op. Atty. Gen. 124a, April 28, 1994	3. Did members of the County Board <u>not</u> receive more than one per diem for any given day?			
§ 375.45	B. Change Funds			
	Were all county change funds established by a County Board appropriation from the proper fund and were the change funds used only for the purpose of making change?			
§ 375.162	C. Imprest Cash Funds			
	1. Imprest Funds for Payment of Claims			
	a. Were imprest cash funds created by the County Board and did the County Board appoint a custodian of each imprest fund; and			
	b. was a claim itemizing all demands for which disbursements have been made from the fund presented to the County Board at the next County Board meeting after the month in which disbursements were made; and			
	c. did the County Board act upon each claim as in the case of other claims and was a warrant issued to the custodian; and			
	d. did the custodian use the proceeds of the warrant to replenish the fund, and if the County Board failed to approve the claim in full for any sufficient reason, was the custodian held personally responsible for the difference?			
§ 375.162	2. Imprest Funds for Travel			
	a. Were imprest cash funds authorized by the County Board for the purpose of advancing money to officers or employees to pay their actual and necessary expenses in attending meetings outside the county or for other job-related travel; and			
	b. did the County Board appoint a custodian to be responsible for its safekeeping and disbursement according to the law; and			

Minn. Stat. Section	<b>MISCELLANEOUS PROVISIONS</b>	Yes	No	Workpaper Reference
	c. was attendance at meetings and other travel outside the county authorized in advance by the County Board; and			
	d. did the officer submit an itemized claim for the actual and necessary expenses incurred and paid related to the approved travel at a meeting of the County Board in the month after approved travel outside the county; and			
	e. did the County Board act upon it as in the case of other claims and was a warrant issued to the officer or employee for the amount allowed; and			
	f. did the officer or employee use the proceeds of the warrant to repay the amount advanced from the fund and if the amount approved by the County Board was insufficient to repay the advance, was the officer or employee held responsible for the difference?			
§ 375.12	D. Publication of County Board Minutes			
	1. Within 30 days of each meeting, did the County Board have the official proceedings of its sessions or a summary published in a qualified newspaper of general circulation in the county?			
	2. Did the information published include all claims exceeding \$2,000 and a statement showing the total number of claims that did not exceed \$2,000 and their total dollar amount?			
§ 375.169	E. Publication of Summary Budget Statement			
	Did the county annually, upon adoption of the county budget, publish a summary budget statement in a form prescribed by the state auditor in the county's official newspaper or, if there is none, a qualified newspaper of general circulation in the county?			
§ 375.17	F. Financial Statements			
	1. Did the County Board annually, not later than the first Tuesday after the first Monday in March, make a full and accurate statement of the receipts and expenditures of the preceding year under the form and style prescribed by and on file with the State Auditor?			
	2. Did the county annually publish the statement or a summary of the statement in a form prescribed by the State Auditor, for one issue in a duly qualified legal newspaper in the county?			
	3. If the County Board elected to publish the full statement, did it publish either:			
	a. an itemized account of amounts paid out, to whom, and for what purpose; <u>or</u>			
	b. if the published proceedings of the County Board contained an itemized account of amounts paid out, to whom, and for what purpose, a schedule of major disbursements containing all disbursements aggregating \$5,000 or more to any person, amounts paid out, to whom, and for what purpose?			

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
§ 385.29	G. County Treasurer Not to Lend Funds			
-	Did the county treasurer <u>not</u> lend any money belonging to the county with or without interest and <u>not</u> use any county money for personal purposes?			
§ 386.78	H. County Recorder Security Deposits			
	1. Does the county recorder accept security deposits to guarantee payment of charges, <u>and</u> did the county recorder deposit such funds in a security fund with the county treasurer?			
	2. Did the county recorder extend credit to persons who made a deposit only up to the amount of the deposit?			
§ 276.19	I. Unclaimed Property Tax Overpayment			
	1. If an overpayment of property tax arose on a parcel due to receipt of a payment that exceeds the total amount of tax required to be paid on the property tax statement:			
	a. did the county promptly notify the payer of the overpayment by regular mail; and			
	b. did the notice identify the parcel, instruct the payer how to claim the overpayment, and advise that the overpayment is subject to forfeiture?			
	2. If a person entitled to a refund failed to claim the overpayment within three years after the date of the overpayment:			
	a. did the county auditor cause a "Notice of unclaimed property tax refunds" to be published in an English language newspaper of general circulation in the county; <u>and</u>			
	b. did the published notice include all items of \$25 or more overpaid on parcels; and			
	c. the names and last known addresses of persons that may be entitled to an unclaimed property tax refund; and			
	d. a statement that if proof of claims is not presented to the county auditor within 90 days, the overpayment will be considered abandoned and all claims to it will be forfeited; and			
	e. a statement that information concerning the amount of overpayment and affected property may be obtained from the county auditor at the address given in the notice?			
	3. If the person entitled to the refund failed to claim the overpayment within 90 days from the date of publication, did the county auditor distribute the refund to the affected taxing district either in proportion to the amount of their respective taxes included in the levy for the tax year overpaid, or in proportion to the current tax year levy?			

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
§ 103E.651	J. Drainage System Accounts			
	1. Did the auditor keep a separate account for each drainage system; and			
	2. was the account credited with all money from the sale of bonds, and bond premiums and all money received from interest, liens, assessments, and other sources for the drainage system; and			
	3. was the account debited with every item of expense made for the drainage system?			
§ 103E.655	K. Drainage System Costs			
	1. If money was not available in the drainage system account on which a warrant was drawn:			
	a. did the county treasurer endorse the warrant “not paid for want of funds” and was interest at the rate of six percent per year paid; <u>or</u>			
	b. did the board, by unanimous resolution, transfer funds from another drainage system account or from the county general revenue fund to the drainage system account; <u>and</u>			
	c. was the money plus interest reimbursed from the proceeds of the drainage system that received the transfer, and was the interest computed for the time the money was actually needed at the same rate charged on drainage liens and assessments?			
§ 282.05, .08	L. Apportionment of Proceeds from Forfeited Land			
	Were the net proceeds from the sale or rental of forfeited land, or from the sale of products from the forfeited land apportioned by the county auditor to the taxing districts interested in the land in accordance with Minn. Stat. § 282.08?			
§ 276.111	M. Distributions and Final Year-End Settlement			
	1. On or before January 5, did the county treasurer make full settlement of all tax receipts collected to December 31 of the prior year?			
	2. On or before January 25, did the county treasurer pay to each of the taxing districts the balance of the tax amounts collected on behalf of each taxing district?			

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
§ 403.113	N. Enhanced 911 Funds			
	1. Were Enhanced 911 funds received by the county from the commissioner of public safety placed in an interest-bearing fund or account separate from the county's general fund as required by Minn. Stat. § 403.113, subd. 2?			
	2. Were these amounts only used to fund implementation, operation, maintenance, enhancement, and expansion of enhanced 911 service, which may include the acquisition of necessary equipment?			
<b>Part II. Provisions Applicable to Political Subdivisions Generally</b>				
§ 13D.01	A. Minnesota Open Meeting Law (Applies to the County Board or other public body and to any committee, subcommittee, board, department, or commission of the public body.)			
	1. Were all meetings of the County Board or other public body and of any committee, subcommittee, board, department, or commission of the County Board or other public body open to the public?			
	2. If a meeting was closed, did the County Board state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed?			
§§ 13D.05, subd. 1(d), 13D.03	3. Were all closed meetings, except those closed as permitted by the attorney-client privilege, electronically recorded at the expense of the public body?			
§§ 345.38-.43	B. Unclaimed Property (Applies to any court, public corporation, public authority or public officer of this state, or a political subdivision.)			
	If the county's records show unclaimed or uncashed checks or other intangible property held for more than three years (or one year for unpaid compensation); was the property reported and paid or delivered to the state Commissioner of Commerce pursuant to Minn. Stat. §§ 345.41, .43?			
§ 465.03	C. Acceptance of Gifts (Applies to any city, county, school district, or town.)			
	1. Was every acceptance of a grant or devise of real or personal property on terms prescribed by the donor made by resolution of the County Board adopted by a two-thirds majority of its members and expressing such terms in full?			
§ 375.19	2. If not in the case of a <u>county</u> only, did the County Board accept real or personal property from a person whose care, support, treatment, or maintenance, in whole or part, is or may be chargeable to or furnished or provided by the county?			
§ 169.022	D. Traffic Violation Administrative Penalties/Safety Classes (Applies to all political subdivisions.)			

Minn. Stat. Section	<b>MISCELLANEOUS PROVISIONS</b>	Yes	No	Workpaper Reference
	<p>1. If the political subdivision has established administrative penalties, has the political subdivision refrained from establishing administrative penalties for traffic regulation, including speeding, DWI, missing plates or tabs, not wearing seatbelts, and other similar state traffic offences <u>or</u></p> <p>Was a resolution passed under Minn. Stat. § 169.999 (Administrative Citations for certain traffic Offences), and were the provisions of that section followed?</p>			
	<p>2. Has the political subdivision <u>not</u> established a safety class option in lieu of issuance or court filing of a state uniform traffic ticket?</p> <p>Note: Minn. Stat. § 477A.0175 now provides a penalty of withholding county program aid distribution from counties judicially determined to be operating unauthorized pretrial diversion programs.</p> <p>Minn. Stat. § 171.2405 permits counties to establish a license reinstatement program for individuals charged with driving after suspension or driving after revocation.</p>			
§ 471.665, subd. 3	<p>E. Mileage Reimbursement/Automobile Allowance (Applies to any county, home rule charter or statutory city, town, or school district.) [Note: Counties having more than 550,000 inhabitants have additional authority. <u>See</u> Minn. Stat. § 471.665, subd. 2.]</p>			
	<p>If the entity has established an automobile allowance for any officer or employee, is the allowance <u>in lieu of</u> all other mileage reimbursement to that officer or employee?</p>			
§§ 15.17 and 138.17	<p>F. Destruction of Records (Applies to all political subdivisions.)</p>			
	<p>If the entity disposed of government records, did it do so in compliance with a validly adopted records retention schedule or “Application for Authority to Dispose of Records?”</p>			
	<p>G. Public Purpose (Applies to all political subdivisions.)</p>			
Ops. Atty. Gen. 442a-17, Jan. 17, 1938; 59a-22, Nov. 23, 1966; 270-D, Aug. 12, 1977; 174E, March 24, 1970	<p>1. Did the entity refrain from donating money to people, nonprofit organizations, and charities unless allowed by specific authority?</p>			
	<p>2. Did the entity refrain from paying for Christmas parties and other employee social events?</p>			
	<p>3. Did the entity refrain from paying retroactive bonuses or pay increases unless the bonus or pay increase was paid under a pre-existing agreement or pursuant to collective bargaining?</p>			
§ 471.661	<p>H. Out-of-State Travel Policy (Applies to each city, county, school district, regional agency, or other political subdivision, <u>except</u> a town.)</p>			
	<p>1. Does the unit of government have on record a policy that controls travel outside the state of Minnesota for the applicable elected officials of the relevant unit of government?</p>			



**COUNTY  
TAX INCREMENT FINANCING**

## LEGAL COMPLIANCE MANUAL

### TAX INCREMENT FINANCING

#### Introduction

Tax increment financing (TIF) is a financing tool created to promote economic development, redevelopment, and housing in areas where it would not otherwise occur. A TIF authority may be a city, county, or an entity created by a city or county, such as a housing and redevelopment authority (HRA) or economic development authority (EDA). The TIF authority creates, and the municipality approves the establishment of, the TIF district. The county auditor certifies a TIF district and determines the original net tax capacity.

The authority captures the property tax revenues generated by the increase in net tax capacity resulting from the new development and uses this increase in property tax revenues, (the tax increments), to finance qualifying expenditures related to the new development. These qualifying expenditures generally relate to acquisition, clean up, and preparation of the site for construction. Each TIF district has a term of years depending on the type of district. Once the costs are paid and the TIF district is decertified, the tax base becomes fully available to the county, city, and school district for financing local services.

The Office of the State Auditor (OSA) prepares Statements of Position to provide an educational resource to local governments, auditors and the public. Statements of Position on Tax Increment Financing topics are available on the Office of the State Auditor website. See <https://www.osa.state.mn.us/training-guidance/guidance/statements-of-position/>.

Auditors should determine whether any special laws applicable to the municipality or authority affect the general legal standards related to tax increment financing. Special laws are common with TIF, and are found in Table 1 of Minnesota Statutes.

Minn. Stat. Section	<b>TAX INCREMENT FINANCING</b>	Yes	No	Workpaper Reference
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**Part I. Segregation/Tax Increment Revenues**

§ 469.174, subd. 25	Note: Tax increment includes:			
	1. Taxes paid by the captured net tax capacity (which include tax increment settlement distributions from the county auditor and any reimbursements of the TIF share of property tax credits that might be paid by the state or county), but excluding any excess taxes, as computed under section 469.177;			
	2. The proceeds from the sale or lease of property, tangible or intangible, to the extent the property was purchased by the authority with tax increments received after June 30, 1997;			
	3. Principal and interest received on loans or other advances made by the authority with increments after June 30, 1997;			
	4. Interest or other investment earnings on or from tax or from tax increments received after July 1, 1997; and			
	5. Repayments or return of tax increments made to the authority under agreements for districts for which the request for certification was made after August 1, 1993.			
§ 469.177, subd. 5	Did the authority segregate tax increment from this district in a special account or accounts on its official books and records, or segregate it as otherwise established by resolution to be held by a trustee for the benefit of bondholders?			

**Part II. Interfund Loans**

§ 469.178, subd. 7	Note: An authority or municipality may advance or loan money to finance TIF expenditures from “its General Fund or any fund under which it has legal authority to do so.”			
§ 469.178, subd. 7	For interfund loans made after July 31, 2001, to finance TIF eligible expenditures, was the loan or advance authorized by resolution no later than 60 days after the money was first transferred, advanced or spent?			
§ 469.178, subd. 7	Are the terms and conditions for repayment of the loan in writing, and do they include, at a minimum, the principal amount, the interest rate, and the maximum term?			
§ 469.178, subd. 7	Does the interest rate on the loan or advance not exceed the greater of the rates specified under section 270C.40 or 549.09?			

Minn. Stat. Section	TAX INCREMENT FINANCING	Yes	No	Workpaper Reference
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**Part III. Four-Year Knock Down Rule**

§ 469.176, subd. 6	Note: If, after four years from the date of certification of the original net tax capacity of the district, no demolition, rehabilitation, or renovation of property or other site preparation, including qualified improvement of a street adjacent to a parcel but not installation of utility service including sewer and water systems, has commenced on a parcel in the district, no additional increment may be taken from that parcel, and the original net tax capacity of that parcel shall be excluded from the original net tax capacity of the district.			
§ 469.176, subd. 6	Did the TIF authority submit to the county auditor, by February 1 of the fifth year following the year in which the parcel was certified, evidence that the required activity has taken place on each parcel in the district?			

**Part IV. Decertification**

§ 469.177, subd. 12	A. Was this TIF district decertified when the earliest of the following times was reached:			
	1. The applicable statutory maximum duration limit under section 469.176, subdivisions 1b to 1g;			
§ 469.176, subd. 1	2. a shorter maximum duration limit if provided in the TIF plan;			
§ 469.1763, subd. 4	3. when the in-district share of tax increment revenues that have been collected through the end of the calendar year equals or exceed an amount sufficient to pay in-district costs and obligations; or when any deferral ends, as described under the Six-Year Rule; or			
§ 469.177, subd. 12	4. upon the later of receipt by the county auditor of a written request for decertification from the authority or the decertification date specified in the request?			
	B Did the authority file a confirmation of decertified TIF district form with its county auditor and transmit a completed for to the OSA?			
	C. Did the authority not receive any tax increment revenues from the county auditor following decertification of the district (except delinquent tax increment as permitted by section 469.176, subd. 1f), or did the authority return any increments received after decertification (per section 469.1763, subd. 4(g)(4))?			

