**CITY**

**MISCELLANEOUS PROVISIONS**

**LEGAL COMPLIANCE AUDIT GUIDE**

**CITY MISCELLANEOUS PROVISIONS**

Introduction

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

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Part I. Provisions Applicable to Political Subdivisions Generally** | | | | | | |
| § 13D.01 | A. | Minnesota Open Meeting Law applies to the city council or other public body and to any committee, subcommittee, board, department, or commission of the city council or other public body. | |  |  |  |
|  |  | 1. | Were all meetings of the city council and of any committee, subcommittee, board, department, or commission of the city council or other public body open to the public? |  |  |  |
|  |  | 2. | If a meeting was closed, did the city council 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 city’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 city council adopted by a two-thirds majority of its members and expressing such terms in full? |  |  |  |
| § 169.022 | D. | Traffic Violation Administrative Penalties/Safety Classes (Applies to all political subdivisions, including cities.) | |  |  |  |
|  |  | 1. | If the city 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 or  Was a resolution passed under Minn. Stat. § 169.999 (Administrative Citations for certain traffic Offences), and were the provisions of that section followed? |  |  |  |
|  |  | 2. | Has the city not established a safety class option in lieu of issuance or court filing of a state uniform traffic ticket?  Note: Minn. Stat. § 477A.0175 now provides a penalty of withholding municipal government distributions from cities judicially determined to be operating unauthorized pretrial diversion programs.  Minn. Stat. § 171.2405 permits cities to establish a license reinstatement program for individuals charged with driving after suspension or driving after revocation. |  |  |  |

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| § 471.665, subd. 3 | E. | Mileage Reimbursement/Automobile allowance (Applies to any county, home rule charter or statutory city, town, or school district.) [Note: The City of St. Paul has additional authority. See Minn. Stat. § 471.665, subd. 2.] | | | | |  |  |  |
|  |  | If the entity has established an automobile allowance for any officer or employee, is the allowance in lieu of all other mileage reimbursement to that officer or employee? | | | | |  |  |  |
| §§ 15.17 & 138.17 | F. | Destruction of Records (Applies to all political subdivisions.) | | | | |  |  |  |
|  |  | 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?” | | | | |  |  |  |
|  | G. | Public Purpose (Applies to all political subdivisions, including cities.) | | | | |  |  |  |
| Ops. Atty. Gen. 442a-17, Jan. 17, 1938; 59a-22, Nov. 23, 1966; 270‑D, Aug. 12, 1977; 174E, March 24, 1970 |  | 1. | Did the entity refrain from donating money to people, nonprofit organizations, and charities unless allowed by specific authority? | | | |  |  |  |
|  | 2. | Did the entity refrain from paying for Christmas parties and other employee social events? | | | |  |  |  |
|  | 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? | | | |  |  |  |
| § 471.661 | H. | Out-of-State Travel Policy (Applies to each city, county, school district, regional agency, or other political subdivision, except a town.) | | | | |  |  |  |
|  |  | 1. | Does the city have on record a policy that controls travel outside the state of Minnesota for the applicable elected officials of the relevant unit of government? | | | |  |  |  |
|  |  | 2. | Was the policy initially approved and were subsequent changes, if any, approved by a recorded vote? | | | |  |  |  |
|  |  | 3. | Does the policy specify: | | | |  |  |  |
|  |  |  | a. | | when travel outside the state is appropriate; | |  |  |  |
|  |  |  | b. | | applicable expense limits; and | |  |  |  |
|  |  |  | c. | | procedures for approval of the travel? | |  |  |  |
|  |  | 4. | Is the policy available for public inspection upon request? | | | |  |  |  |
| § 471.698 | I. | Did the city prepare a financial statement, file it for public inspection, and submit it to the Office of the State Auditor? | | | | |  |  |  |
| § 462.358,  subds. 2b  & 2c | J. | Subdivision Regulations--fees in lieu of dedication (cities) | | | | |  |  |  |
|  |  | If the city requires a cash fee in lieu of dedication of buildable land for parks, recreational facilities, playgrounds, trails, wetlands or open space: | | | | |  |  |  |
|  |  | 1. | Was the cash fee based on fair market value of land and set by ordinance no later than at the time of final approval? | | | |  |  |  |
|  |  | 2. | Did the city adopt a capital improvement budget? | | | |  |  |  |
|  |  | 3. | Did the city have a parks and open space plan or have a parks, trails, and open space component in its comprehensive plan? | | | |  |  |  |
|  |  | 4. | Were cash payments placed in a special fund to be used only for the purposes for which the money was obtained? | | | |  |  |  |
|  |  | 5. | Were cash payments used only for the acquisition and development or improvement of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the approved park system plan and not used for ongoing operation or maintenance? | | | |  |  |  |
| § 471.6175 | K. | If a trust for Other Post-Employment Benefits (OPEB) was created pursuant to Minn. Stat. § 471.6175, did the trust administrator report, no later than October 25th, to the State Auditor’s Office the investment return information required by Minn. Stat. § 471.6175, subd. 4? | | | | |  |  |  |
| § 477B.04 | L. | If the city has an incorporated firefighters’ relief association that was not covered by the statewide volunteer firefighter plan, and that has filed a financial report with the city (pursuant to Minn. Stat. § 424A.014) and for which there is no aid allocation agreement in place: | | | | |  |  |  |
|  |  | 1. | Did the city treasurer transmit the state aid from the Commissioner of Mgmt. and Budget to the relief association treasurer: | | | |  |  |  |
|  |  |  | a. | | within 30 days of receipt; or | |  |  |  |
|  |  |  | b. | | for a fire relief association which had not filed a financial report with the municipality, at a later date upon the relief association’s filing a financial report? | |  |  |  |
| § 477B.042 | M. | If the city received fire state aid, was not covered by the statewide lump‑sum volunteer firefighter plan under Minn. Stat. ch. 353G and has entered into a state aid allocation agreement under Minn. Stat. § 477B.042, did the city: | | | | |  |  |  |
|  |  | 1. | | Transmit the amount of the fire state aid as determined in the aid allocation agreement to the relief association within 30 days of receipt of the fire state, and | | |  |  |  |
|  |  | 2. | | Disburse the fire state aid allocated to the city: | | |  |  |  |
|  |  |  | | a. | | solely for payment of employer contributions for firefighters to the public employees police and fire retirement plan or to the relief association, and |  |  |  |
|  |  |  | | b. | | within 18 months of receipt of the state aid? |  |  |  |
| §§ 477B.04, 424A.014,  & 424A.08 | N. | If the city (1) received fire state aid, (2) is not covered by the statewide lump‑sum volunteer firefighter plan under Minn. Stat. ch. 353G, and (3) had no firefighters’ relief association, or the association has dissolved or has been removed as trustee of state aid: | | | | |  |  |  |
|  |  | 1. | were the funds placed in a special account in the city treasury? | | | |  |  |  |
|  |  | 2. | were the funds only used for: | | | |  |  |  |
|  |  |  | a. | | payment of fees, dues, and assessments to the Minnesota State Fire Department Association and to the State Volunteer Firefighters Benefit Association; | |  |  |  |
|  |  |  | b. | | payment of the cost of purchasing and maintaining fire department equipment; or | |  |  |  |
|  |  |  | c. | | payment of the cost of construction, acquisition, repair, or maintenance of buildings or other places housing the equipment of the fire department; or | |  |  |  |
|  |  |  | d. | | If it has full-time firefighters covered by the public employees police and fire retirement plan, to pay the employer contribution requirement with respect to firefighters covered by the public employee police and fire retirement plan under Minn. Stat. § 353.65? | |  |  |  |
| § 424A.08(c) | O. | If the city has no volunteer firefighters' relief association directly associated with it and participates in the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, did it transmit any fire state aid that it received to the voluntary statewide lump-sum volunteer firefighter retirement fund? | | | | |  |  |  |
| § 423A.022,  subd. 2(2) | P. | If the city received Police and Firefighter Supplemental State Aid paid pursuant to Minn. Stat. § 423A.022, was it transmitted to the applicable volunteer relief association within 30 days of receipt by the city treasurer? | | | | |  |  |  |

|  |
| --- |
| **Part II. Audit Conclusion** |
| The auditor must state a conclusion--based on this questionnaire and any other audit procedures performed--whether the client has complied with the legal provisions reviewed relating to miscellaneous provisions.  Conclusion: |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |
|  |