

# OFFICE OF THE STATE AUDITOR

## Minnesota Legal Compliance Audit Guide for Other Political Subdivisions

**For the following entities, use the specified Legal Compliance Audit Guide:**

<b>Cities</b>	--	<b>Minnesota Legal Compliance Audit Guide for Cities</b>
<b>Counties</b>	--	<b>Minnesota Legal Compliance Audit Guide for Counties</b>
<b>Towns (Townships)</b>	--	<b>Minnesota Legal Compliance Audit Guide for Towns</b>
<b>School Districts</b>	--	<b>Minnesota Legal Compliance Audit Guide for School Districts</b>
<b>Charter Schools</b>	--	<b>Minnesota Legal Compliance Audit Guide for Charter Schools</b>
<b>Relief Associations</b>	--	<b>Minnesota Legal Compliance Audit Guide for Relief Associations</b>

For a joint powers entity whose members are a single type of political subdivision (all cities, all counties, all towns, etc.), the auditor should use the Legal Compliance Guide suitable for the participating members.

## ORDER

Pursuant to Minn. Stat. § 6.65, I hereby prescribe the form and scope of the Minnesota Legal Compliance Audit Guide for Other Political Subdivisions. 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	Contracting - Bid Laws,
Page 4-1	Claims and Disbursements,
Page 5-1	Examples of Independent Auditor's Reports,
Page 6-1	Uniform Financial Accounting and Reporting Standards (UFARS),
Page 7-1	Political Subdivision Miscellaneous Provisions, and
Page 8-1	Tax Increment Financing.

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

/s/

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Rebecca Otto  
State Auditor

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## INTRODUCTION

This Legal Compliance 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 purpose of this Legal Compliance Audit Guide is to establish minimum compliance guidelines for verification by auditors engaged in the process of auditing other political subdivisions of the state.

This Legal Compliance Audit Guide is intended for use in the audit of Minnesota political subdivisions other than counties, cities, towns, and school districts, and a separate Legal Compliance Audit Guide has been created for each of these local governments. In addition, separate Legal Compliance Audit Guides have been created for audits of charter schools and relief associations.

This 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 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.

### Other Political Subdivisions

Political subdivisions other than counties, cities, towns and school districts may be authorized by various statutes or special laws, and specific audit requirements may be provided by law.

For example, certain special districts are subject to the audit and/or reporting requirements of Minn. Stat. § 6.756. "Special district" in this context is defined as "a public entity with a special or limited purpose, financed by property tax revenues or other public funds, that is not included in a city, county, or town financial report as a component of that local government, that is created or authorized by law, and that is governed by (1) persons directly elected to the governing board of the district, (2) persons appointed to the governing board of the district by local elected officials, (3) local elected officials who serve on the board by virtue of their elected office, or (4) a combination of these methods of selection. Special district includes special taxing districts listed in section [275.066](#)."

The referenced Statute, Minn. Stat. § 275.066 (Special Taxing Districts; Definition) lists many types of other political subdivisions, along with the statutes that authorize them. These include, among others:

- (1) watershed districts under Chapter 103D;
- (2) sanitary districts under Sections 442A.01 to 442A.29;
- (3) regional sanitary sewer districts under Sections 115.61 to 115.67;
- (4) regional public library districts under Section 134.201;
- (5) park districts under Chapter 398;
- (6) regional railroad authorities under Chapter 398A;
- (7) hospital districts under Sections 447.31 to 447.38;
- (8) St. Cloud Metropolitan Transit Commission under Sections 458A.01 to 458A.15;
- (9) Duluth Transit Authority under Sections 458A.21 to 458A.37;
- (10) regional development commissions under Sections 462.381 to 462.398;
- (11) housing and redevelopment authorities under Sections 469.001 to 469.047;
- (12) port authorities under Sections 469.048 to 469.068; and
- (13) economic development authorities under Sections 469.090 to 469.1081.

It is important that auditors review the statutes or laws that authorize the audited other political subdivision.

#### AUDITOR'S REPORTS ON COMPLIANCE

Chapter 5 contains 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 governing body. 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. Various statutes that refer to taking or publishing minutes use the term “proceedings” or “official proceedings.” *See* Minn. Stat. §§ 384.09 (counties); 412.151, subd. 1 (statutory cities); 367.11(1) (towns); and 123B.09, subd. 10, (school districts). 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 body, 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 kept for that purpose. . . . 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 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 governing body 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.

The amount of detail which is appropriate for inclusion in the minutes of a particular body is likely to vary, depending upon the nature of the proceedings and the subject matter involved.

While the minutes of a governing body 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, section 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 political subdivisions 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 political subdivision 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 must be kept forever, unless the political subdivision (1) adopts a general records retention schedule (if one exists for that type of political subdivision), (2) adopts its own properly approved records retention schedule, or (3) receives authority to dispose of the records from the records disposition panel.

A political subdivision that wishes to adopt the appropriate General Records Retention Schedule 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  
Information Policy Analysis Division  
201 Administration Building  
50 Sherburne Avenue  
St. Paul, Minnesota 55155  
(651) 296-6733  
(800) 657-3721

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

In future years, the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions* 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.auditor.state.mn.us>



**OTHER POLITICAL SUBDIVISIONS  
DEPOSITORIES OF PUBLIC FUNDS  
AND  
PUBLIC INVESTMENTS**

# LEGAL COMPLIANCE AUDIT GUIDE

## DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS

### Introduction

A government entity that receives and disburses funds may deposit the funds only in financial institutions designated by its governing body. The governing body may authorize its treasurer or chief financial officer to make such designations. The government entity may deposit funds in amounts that are federally insured or, if it deposits more than this amount, it must either have the depository furnish a bond or assign collateral to protect the excess deposit.

“Government entity” for the purpose of this section means:

- a county;\*
- a city;\*
- a town;
- a school district;
- a hospital district;
- a public authority;
- a public corporation;
- a public commission;
- a special district;
- a political subdivision; and
- [for depository and collateral provisions only - Minn. Stat. §§ 118A.02 and 118A.03] an American Indian tribal government entity located within a federally recognized American Indian reservation.

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.

If the audited government entity is one of those listed, complete this section to determine if the government entity has properly invested its funds or deposited its funds in a properly designated depository with appropriate collateral or bond.

In addition, the depository and collateral requirements of Minn. Stat. §§ 356A.06, subd. 8a, and 118A.03 apply to fire relief associations. Parts I and II should be completed for fire relief associations.

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

\*Note: A “city with a population in excess of 200,000 or a county that contains a city of that size” (currently the two largest cities and counties) and the Metropolitan Council have additional investment authority. *See* Minn. Stat. § 118A.07.

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 government entity:			
	1. Has each depository of public funds been designated by the government entity's governing body, or by its treasurer or chief financial officer, if the governing body 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 government entity 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 government entity's funds that is 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).			
	<p><b>General Principles of FDIC coverage:</b></p> <p>1. Deposits are insured only if the depository is a member of FDIC.</p> <p>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.</p>			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>7. Moneys held by a government entity in trust are insured separately from other government entity funds only if 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.</p>			
	<p>C. Was collateral coverage sufficient? (Answer after completing the spreadsheet on page 1-11.)</p>			

**Part III. The Bond and Collateral**

§ 118A.03, subd. 1	<p>A. If a bond was furnished by the depository to the government entity, answer the following question:</p>			
	<p>1. Was the bond executed by a corporate surety company authorized to do business in the state?</p>			
§ 118A.03, subd. 2	<p>B. If the depository assigned collateral to the government entity, answer the following questions:</p>			
	<p>1. Was the collateral one of the following:</p>			
	<p>a. U.S. government treasury bills, notes, or bonds;</p>			
	<p>b. issues of a U.S. government agency or instrumentality that are quoted by a recognized industry quotation service available to the government entity;</p>			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	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?			
§ 118A.03, subd. 3	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.  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.			
	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]			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
[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?			

<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 government entity safekeeps investments with a third party:			
	1. Is the government entity'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?			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	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			
	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 public entity withdrawal rights in the event the issuer's or guarantor's credit quality was downgraded below "A"?			
§ 118A.05, subd. 4	I. Did the government entity 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 government entity only invest 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;			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	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 government entity only invest 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?			
	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;			



Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
§ 118A.04, subd. 5	7. In time deposits fully insured by the Federal Deposit Insurance Corporation;			
§ 118A.04, subd. 5	8. In bankers' acceptances issued by United States banks;			
§ 118A.04, subd. 7	9. In its 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. (For counties, cities, towns and other municipal corporations, political subdivisions and political bodies) 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.			
	<b>M. Mortgage-Backed Securities</b>			
§ 118A.04, subd. 2	Government entities 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 government entity after August 1, 1993, <u>not</u> "high risk?"			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
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<b>Part V. Broker Acknowledgement Certification</b>				
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§ 118A.04, subd. 9	A. Annually, prior to completing an initial investment transaction with each broker, did the government entity 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 government entity’s account in accordance with the restrictions?			
	C. Did the government entity retain documentation of compliance with A and B above?			

<b>Part VI. Audit Conclusion</b>				
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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 depositories of public funds and investments.

Conclusion:


SPREADSHEET

			a	b	c	d	(a+b) - (c+d) = e	e x 1.1 = f	g	g - f
Name of Depository	*	**	Time/Savings Accounts	Demand Accounts	Amount of Insurance Coverage	Amount of Bond	Deposits Requiring Collateral	Amount of Collateral Needed (110% of Deposits Requiring Collateral)	Market Value of Collateral Provided	Sufficient (Insufficient) Collateral Coverage

\* Put a check in this column if depository is a member of FDIC or NCUA.  
 \*\* Put a check in this column if depository is not a branch of any of the other depositories here.

**OTHER POLITICAL SUBDIVISIONS  
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.

Exceptions: For practical reasons, the legislature has created certain limited exceptions to the general prohibition. Exceptions apply to port authorities, seaway port authorities, economic development authorities, watershed districts, soil and water conservation districts, towns, school districts, hospital districts, counties and cities. 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. As noted on page 2-5, if the entity being audited was formed as a joint powers entity under Minn. Stat. § 471.59, it is possible that an exception available to a member entity (for example a city, county, town or school district) may apply. Communicate with the entity being audited and review Minn. Stat. § 471.88 to determine whether this may be the case. It may also be helpful to review the exceptions listed in the Legal Compliance Audit Guide that would apply to the member entity. 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 governing body. 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 governing body. 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.

A provision regarding employee contracts involving spouses of school board members was enacted in 2008. See Minn. Stat. § 471.88, subd. 21. This provision has been added to the checklist.

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 Conflict of Interest Provisions

For public and local officials of metropolitan government units (as defined by Minn. Stat. § 10A.01, subs. 35, 22, and 24), see also Minn. Stat. § 10A.07.

Part I of this section does not apply to Housing and Redevelopment Authority (HRA) commissioners and employees, or to Economic Development Authorities (EDA) commissioners and employees. Commissioners and employees of these entities are governed by the provisions of Minn. Stat. § 469.009 (HRAs) or Minn. Stat. § 469.098 (EDAs). Auditors of these entities should review these statutes, which contain different standards and provide for disclosure and abstention in specified instances if specified procedures are followed.

Minn. Stat. Section	<b>CONFLICTS OF INTEREST</b>	Yes	No	Workpaper Reference
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**Part I. Contracts Generally**

[As noted on page 2-2, this Part I does not apply to HRAs or EDAs. For these entities, see the statutes cited on page 2-2.]

§ 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 governing body 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 governing body 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 governing body and an interested officer, did the governing body 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 governing body 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 governing body'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	CONFLICTS OF INTEREST		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?				
	(See discussion of contracts that are subject to bidding on page 4-1.) (If the interested officer is a school board member and employee of the district, <u>see</u> Part B.7., <i>infra</i> , “Employment Contracts with School Board Members.” If the contract involves a class of employees that includes the spouse of a school board member; <i>see</i> Part B.12., <i>infra</i> , “School Board Member Spouse/Employee Class.”)				
§ 471.89, subd. 2	b. Did the governing body, 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 governing body 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 governing body adopt such a resolution prior to payment of the claims in which the facts of the emergency are also stated?				



Minn. Stat. Section	<b>CONFLICTS OF INTEREST</b>	Yes	No	Workpaper Reference
§ 471.88, subd. 6	5. Contract with Fire Department			
	If the governing body 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?			
§ 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 government unit to provide construction materials or services, or both:			
	a. Was the contract done by a sealed bid process?			
	b. Does the unit have a population of 1,000 or less according to the last federal census?			
	c. When the question of the contract came before the governing body 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?			
§§ 412.311; 365.37, subd. 1; 382.18; & 123B.52, subd. 5	9. Conflicts of Interest: All Other Contracts or Transactions  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 (B1-12)?*			

Minn. Stat. Section	<b>CONFLICTS OF INTEREST</b>	Yes	No	Workpaper Reference
	<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> <p>In addition, if the other political subdivision was formed as a joint powers entity under Minn. Stat. § 471.59, it is possible that an exception available to a member entity (for example a city, county, town or school district) may apply. Communicate with the entity being audited and review Minn. Stat. § 471.88 to determine whether this may be the case. It may also be helpful to review the exceptions listed in the Legal Compliance Audit Guide that would apply to the member entity.</p>			

<b>Part II. Purchase of Merchandise from Governmental Agency</b>				
§ 15.054	<p>A. Political subdivisions are prohibited from selling property or materials owned by the political subdivision to its officers or employees. <u>Employees</u> may make purchases from political subdivisions if the following criteria are met.</p>			
	For all purchases:			
	1. Was the property or materials purchased by the public employee not needed for public purposes?			
	2. Was the purchase made through sealed bids or public auction?			
	3. Was the employee <u>not</u> directly involved with the sealed bid or auction process?			
	4. Was the applicable “notice” law followed, and did the same require at least one week of published notice?			
	Minn. Stat. § 15.054 does not apply to property or materials acquired or produced by political subdivisions for sale to the general public in the ordinary course of business.			

<b>Part III. Audit Conclusion</b>				
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 conflicts of interest.				
Conclusion:				

**OTHER POLITICAL SUBDIVISIONS  
CONTRACTING - BID LAWS**

## LEGAL COMPLIANCE AUDIT GUIDE

### CONTRACTING - BID LAWS

#### Introduction

A municipality 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.”

A municipality, for the purpose of this section, is a county, town, city, school district, or other municipal corporation or political subdivision of the state authorized by law to enter into contracts. Each contract must be approved by the appropriate authority, as authorized by statute or charter, within the municipality.

If the audited governmental unit is one of the listed types of municipalities and it has the power to contract, complete the questionnaire to determine if the municipality conformed to the contracting and bidding statutes.

Minn. Stat. § 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 \$100,000 - sealed bids, solicited by public notice and subject to the particular requirements of the governmental subdivision.
2. For contracts from \$25,000 to \$100,000 - 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, subsd. 16 and 17, allow municipalities 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.

In 2013, the Minnesota Legislature enacted Minn. Stat. § 471.3457. This statute authorizes local governments 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 - Applies to All Municipalities				
	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 \$100,000 (sealed bids or best value procurement)			
	a. Sealed bids			
§ 471.345, subd. 3	(1) Have all contracts estimated to exceed \$100,000 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 entity's records retention schedule.)			
Minn. Stat. § 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. § 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).			
	2. Contracts from \$25,000 to \$100,000 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 \$100,000 been let on sealed bids or negotiated quotes?			
	(2) If sealed bids were used, were the requirements of A.1. met?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(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. § 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. § 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).			
	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. § 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. § 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).				
§ 471.345, subd. 16	B.	Reverse Auction Purchase			
	If the municipality 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, subds. 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?			
§ 471.345, subd. 17	C.	Electronic Sale			
	If the municipality 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 governing board designate this manner of publication (on the political subdivision's website) at the meeting at which it designated its official newspaper?			
	2.	Had the political subdivision 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 political subdivision 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 political subdivision ensure that a permanent record of publication is maintained in a form accessible by the public?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 331A.03, subd. 3	E. Alternative Dissemination of Bids and Requests			
	If, as an alternative to publishing them in a newspaper, a political subdivision disseminated solicitations of bids, requests for information or requests for proposals by using a Web site or recognized industry trade journals:			
	1. Did the political subdivision 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 political subdivision 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?			
	4. Did the publication in the official newspaper indicate where to find the designated alternative method?			
§ 331A.01, subd. 11	<b>Note:</b> "Recognized industry trade journal" means a printed or digital publication or Web site 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. 15	F. If the municipality 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	G. For each contract for the purchase of supplies, materials, or equipment over \$25,000, did the municipality consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture before purchasing through another source			
	<b>Note:</b> 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, solid waste contracts, and town road construction or maintenance contracts based on terms of county contracts for adjoining roads. 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, and 19; and 400.04.			



Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 16C.285	<p>H. Responsible Contractor Requirement</p> <p>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?</p>			
§ 471.35	<p>I. Other Considerations</p>			
	<p>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?</p>			
	<p>2. Interest in contract. (See Conflicts of Interest Section, page 2-1.)</p>			
§ 574.26	<p>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 \$100,000.</p>			
	<p>a. Were bonds received for all contracts greater than \$100,000?</p>			
	<p>b. Were the amounts sufficient?</p>			
	<p>Note: The contractor's performance and payment bond requirement does not apply to contracts for snow removal, ice removal, grading, or other similar routine road maintenance on town roads.</p>			
§ 574.261, subd. 1a	<p>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.</p>			
§ 471.6161	<p>J. Group Insurance</p>			
	<p>Note: Additional Requirements apply to School District Contracts for Group Insurance. See Minn. Stat. § 471.6161, subd. 8 (2014).</p>			
	<p>Any political subdivision that provides group insurance for 25 or more employees must comply with certain bidding requirements in contracting for or renewing said insurance.</p>			
	<p>1. Was the request for proposals (RFP) in writing?</p>			
	<p>2. Did the RFP include:</p>			
	<p>a. the coverage to be provided;</p>			
	<p>b. the criteria for evaluation of proposals; and</p>			
	<p>c. the aggregate claims record for the appropriate period?</p>			
	<p>3. Was the RFP notice placed in a newspaper or trade journal at least 21 days before the final date for submitting proposals?</p>			
	<p>4. Was a written rationale explaining the political subdivision's decision prepared prior to entering into a contract?</p>			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
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	5. Was the term of the contract five years or less, including extensions?			
§ 471.3455	K. Public Safety Equipment Purchase or Lease (for statutory or home rule charter cities, counties, towns, special taxing districts or any other political subdivision that acquires public safety equipment.)			
	If equipment was acquired pursuant to this statute without competitive bidding or proposals:			
	1. Was the public safety equipment <u>used</u> , <u>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, subdivision 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?			
§471.425, subd. 4a	L Did each contract between the government entity 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?			
§270C.66	M Withholding Affidavit/Certificate (Applies to all political subdivisions.)			
	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 entity 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)?			

<b>Part III. Audit Conclusion</b>				
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 contracting and bidding.				
Conclusion:				

**OTHER POLITICAL SUBDIVISIONS  
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 Minn. Stat. § 471.38 means a county; local social services agency; county board of education for unorganized territory; school district; charter school; town or home rule charter city of the second, third, or fourth class; or park district.

If you are auditing a political subdivision other than those subject to Minn. Stat. Section 471.38, examine the statutes that authorize and restrict its activities. (A partial list of political subdivisions with their applicable statutory sections is found on page ii, in the Introduction.) Determine from the applicable statutes:

- whether a process for approval of claims is provided,
- whether certain signatures are required on checks issued by the political subdivision, and
- whether there are any general requirements for financial transactions that apply to the claims handling process.

If claims are not in writing, not itemized or not reviewed by an appropriate person or tribunal prior to payment, proper internal controls likely are lacking.

In addition, Minn. Stat. § 471.425 (Prompt Payment of Local Government Bills), applies to any home rule charter or statutory city, county, town, school district, political subdivision, or agency of local government. It also applies to the Metropolitan Council and any board or agency created under Minn. Stat. ch. 473.

Minn. Stat. Section	<b>CLAIMS AND DISBURSEMENTS</b>	Yes	No	Workpaper Reference
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**Part I. General Provisions - For Municipalities**

§ 471.38, subd. 1	A. Has every person or the person's agent claiming payment put such claim in writing (which includes an electronic transaction record) by items?			
	B. Has each declaration for payment (described below) been signed to the effect that such account, claim, or demand is just and correct and that no part of it has been paid?			
§ 471.38, subd. 2	Note: The provisions of this section do 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.			
§ 471.391, subd. 1	<p>Declaration Form - The declaration is sufficient if in the following form: "I declare under the penalties of law that this account, claim or demand is just and correct and that no part of it has been paid."</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(Signature of Claimant)</p>			
§ 471.391, subd. 2	The check or order-check by which the claim is paid may have printed on its reverse side, above the space for endorsement thereof, the following statement: "The undersigned payee, in endorsing this check (or order-check) declares that the same is received in payment of a just and correct claim against the county (county board of education for unorganized territory, school district, town or city), and that no part of it has heretofore been paid." When endorsed by the payee named in the check or order-check, such statement shall operate and shall be deemed sufficient as the required declaration of the claim.			
§ 471.392	C. Any person who willfully and falsely makes the declaration provided for is guilty of a felony.			
§ 471.425, subd. 2	D. Prompt Payment of Local Government Bills			
	- Standard payment period is:			
	- 35 days from receipt for governing boards that meet at least once a month;			
	- 45 days from receipt of goods or services or invoice, whichever is later, for governing 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 government entity 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 government entity calculate and pay interest as required by law?			
	Note: The interest penalties in these questions do not apply to good faith disputes.			

§ 103C.321, and 103D.325	<b>Part II. Credit Card Purchases - For Watershed Districts and Soil and Water Conservation Districts</b>			
	A. If a watershed district or soil and water conservation district officer or employee made a purchase on behalf of the watershed district by credit card:			
	1. Had the supervisors or managers 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 watershed district or soil and water conservation district; and			
	3. Did the purchase otherwise comply with all statutes, rules, or policies applicable to the purchases?			
	B. If a watershed district or soil and water conservation district officer or employee made a purchase by credit card that was not approved by the supervisors or managers, was the officer or employee held personally liable for the amount of the purchase?			

<b>Part III. Audit Conclusion</b>	
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 claims and disbursements.	
Conclusion:	

**OTHER POLITICAL SUBDIVISIONS  
EXAMPLES OF INDEPENDENT AUDITOR'S REPORTS**

## LEGAL COMPLIANCE AUDIT GUIDE

### EXAMPLES OF INDEPENDENT AUDITOR'S REPORTS

Minnesota Legal Compliance	
Other Political Subdivisions (Not subject to UFARS)	5-2
Other Political Subdivisions (Not subject to UFARS) - <i>Government Auditing Standards</i>	5-4
Other Political Subdivisions (Subject to UFARS)	5-5
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>	5-5



Independent auditor's report for *other political subdivisions not subject to UFARS*. If the Other Political Subdivision has authority to issue debt, the auditor should test compliance with the statutory authority to issue this debt, and add language to the end of the paragraph that lists the compliance categories considered and explains what was not tested: "Additionally, we tested for compliance with the authority to issue public debt." (Note: Eliminate this paragraph from the report)

## MINNESOTA LEGAL COMPLIANCE

### Independent Auditor's Report

(Governing body)  
(Entity)

We have audited, in accordance with auditing standards generally accepted in the United States of America, the financial statements of (*list of opinion units*) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_, and the related notes to the financial statements which collectively comprise the \_\_\_\_\_'s basic financial statements, and have issued our report thereon dated \_\_\_\_\_.

The *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, claims and disbursements, miscellaneous provisions, and tax increment financing. Our audit considered all of the listed categories,<sup>1</sup> except that we did not test for compliance with the provisions for (identify area not tested) because (state reasons for excluding any areas from audit)

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*. 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 \_\_\_\_\_'s noncompliance with the above referenced provisions.

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

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, except as described in the Schedule of Findings and Questioned Costs as items (*list related finding reference numbers*). 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 \_\_\_\_\_'s noncompliance with the above referenced provisions.

This report is intended solely for the information and use of those charged with governance and management of \_\_\_\_\_ and the State Auditor and is not intended to be and should not be used by anyone other than these specified parties.

(Signature)

(Date)

Independent auditor’s report for *other political subdivisions, not subject to UFARS*, conducted under *Government Auditing Standards*. If the Other Political Subdivision has authority to issue debt, the auditor should test compliance with the statutory authority to issue this debt, and add language to the end of the paragraph that lists the compliance categories considered and explains what was not tested: “Additionally, we tested for compliance with the authority to issue public debt.” (Note: Eliminate this paragraph from the report.)

## MINNESOTA LEGAL COMPLIANCE

### Independent Auditor’s Report

(Governing body)  
(Entity)

We have audited, in accordance with 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 of opinion units*) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_, and the related notes to the financial statements, which collectively comprise the \_\_\_\_\_’s basic financial statements, and have issued our report thereon dated \_\_\_\_\_.

The *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, claims and disbursements, miscellaneous provisions, and tax increment financing. Our audit considered all of the listed categories, <sup>2</sup>except that we did not test for compliance with the provisions for (identify area not tested) because (state reasons for excluding any areas from audit).

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*. 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 \_\_\_\_\_’s noncompliance with the above referenced provisions.

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)

Independent auditor's report for *other political subdivisions subject to UFARS*. If the Other Political Subdivision has authority to issue debt, the auditor should test compliance with the statutory authority to issue this debt, and add language to the end of the paragraph that lists the compliance categories considered and explains what was not tested: "Additionally, we tested for compliance with the authority to issue public debt."

(Note: Eliminate this paragraph from the report.)

## MINNESOTA LEGAL COMPLIANCE

### Independent Auditor's Report

(Governing body)

(Entity)

We have audited, in accordance with 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 of opinion units*) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_, and the related notes to the financial statements, which collectively comprise the basic financial statements, and have issued our report thereon dated \_\_\_\_\_.

The *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, claims and disbursements, miscellaneous provisions, and uniform financial accounting and reporting standards (UFARS). Our audit considered all of the listed categories,<sup>3</sup> except that we did not test for compliance with the provisions for (identify area not tested) because (state reasons for excluding any areas from audit)

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*. 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 \_\_\_\_\_'s noncompliance with the above referenced provisions.

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

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, except as described in the Schedule of Findings and Questioned Costs as items (*list related finding reference numbers*). 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 \_\_\_\_\_'s noncompliance with the above referenced provisions.

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 Other Political Subdivisions*. If the Other Political Subdivision has authority to issue debt, the auditor should test compliance with the statutory authority to issue this debt, and add language to the end of the paragraph that lists the compliance categories considered and explains what was not tested: “Additionally, we tested for compliance with the authority to issue public debt.”

(Note: Eliminate this paragraph from 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

[Governing body]  
[entity]

We have audited, in accordance with 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 \_\_\_\_\_ as of and for the year ended \_\_\_\_\_, and the related notes to the financial statements, which collectively comprise the \_\_\_\_\_’s basic financial statements, and have issued our report thereon dated \_\_\_\_\_.

**Internal Control over Financial Reporting\***

In planning and performing our audit of the financial statements, we considered \_\_\_\_\_’s internal control over financial reporting to determine the 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 \_\_\_\_\_’s internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the \_\_\_\_\_’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 \_\_\_\_\_’s financial statements will not be prevented, or detected and corrected, on a timely

basis. A significant deficiency is a deficiency, or a 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 may exist that have not been identified.

### **Compliance and Other Matters\*\***

As part of obtaining reasonable assurance about whether \_\_\_\_\_'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 determination of financial statement amounts. 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**

[Paragraph to be used for other political subdivisions not subject to UFARS]

The *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, claims and disbursements, miscellaneous provisions, and tax increment financing. Our audit considered all of the listed categories, <sup>4</sup>except that we did not test for compliance with the provisions for (identify area not tested) because (state reasons for excluding any areas from audit)

[Paragraph to be used for other political subdivisions subject to UFARS]

The *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, claims and disbursements, miscellaneous provisions, and uniform financial accounting and reporting standards (UFARS). Our audit considered all of the listed categories, <sup>5</sup>except that we did not test for compliance with the provisions for (identify area not tested) because (state reasons for excluding any areas from audit)

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*. 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 \_\_\_\_\_'s noncompliance with the above referenced provisions. \*\*\*

### **Other Matters**

\_\_\_\_\_’s responses to the internal control and legal compliance findings (*adjust as necessary for what they responded to*) identified in our audit have been included in the [name of report where responses/corrective action plans are included]. The \_\_\_\_\_’s responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them. **[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 results of that testing, and not to provide an opinion on the effectiveness of the \_\_\_\_\_’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 \_\_\_\_\_’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 \_\_\_\_\_’s internal control over financial reporting to determine the 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 \_\_\_\_\_’s internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the \_\_\_\_\_’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 \_\_\_\_\_'s financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a 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. However, material weaknesses may exist that have not been identified. We did identify certain deficiencies (**a deficiency**) in internal control over financial reporting, described in the accompanying Schedule of Findings and Questioned Costs as item (*list item numbers*) that we consider to be significant deficiencies (**a significant deficiency**).

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

In planning and performing our audit of the financial statements, we considered \_\_\_\_\_'s internal control over financial reporting to determine the 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 [entity type]'s internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the \_\_\_\_\_'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 of Findings and Questioned Costs, we identified certain deficiencies (**a deficiency**) in internal control over financial reporting that we consider to be material weaknesses (a material weakness) and significant deficiencies. (**If no significant deficiencies, adjust last sentence.**)

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 \_\_\_\_\_'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 attention by those charged with governance. We consider the deficiencies described in the

accompanying Schedule of Findings and Questioned Costs, as items *[list finding numbers]* to be material weaknesses, and items *[list finding numbers]* to be significant deficiencies. . **(If no significant deficiencies, adjust last sentence.)**

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

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

As part of obtaining reasonable assurance about whether \_\_\_\_\_'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 determination of financial statement amounts. 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 of Findings and Questioned Costs as items *(list related finding reference numbers)*.

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

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

In connection with our audit, nothing came to our attention that caused us to believe that \_\_\_\_\_ failed to comply with the provisions of the *Minnesota Legal Compliance Audit Guide for Other Political Subdivisions*, except as described in the Schedule of Findings and Questioned Costs as items *(list related finding reference numbers)*. 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 \_\_\_\_\_'s noncompliance with the above referenced provisions.

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<sup>1</sup> If the rest of the sentence does not apply, put a period here and continue to the next paragraph.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

# **UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS (UFARS)**

**Note: “All governmental units formed by joint powers agreements entered into by districts pursuant to sections 123A.22, 125A.03 to 125A.24, 125A.26 to 125A.48, 125A.65, 471.59, or any other law and all service cooperatives and education districts are subject to the provisions of” Minn. Stat. § 123B.77 [Accounting, Budgeting, and Reporting Requirement].**

## LEGAL COMPLIANCE AUDIT GUIDE

### UNIFORM FINANCIAL ACCOUNTING AND REPORTING STANDARDS (UFARS) FOR MINNESOTA SCHOOL DISTRICTS AND CHARTER SCHOOLS

#### Introduction

Minnesota law requires that the audits of all school districts, all governmental units formed by joint powers agreements entered into by school districts, and all service cooperatives and education districts must include a determination of compliance with uniform financial accounting and reporting standards (UFARS). Minn. Stat. §§ 6.65; 123B.77, subd. 3. This requirement applies to charter schools under Minn. Stat. § 124D.10, subd. 8 (j).

Minn. Stat. § 6.65 states (emphasis added):

The state auditor shall prescribe minimum procedures and the audit scope for auditing the books, records, accounts, and affairs of political subdivisions in Minnesota. The minimum scope for audits of all political subdivisions must include financial and legal compliance audits. Audits of all school districts must include a determination of compliance with uniform financial accounting and reporting standards. The state auditor shall promulgate an audit guide for legal compliance audits, in consultation with representatives of the state auditor, the attorney general, towns, cities, counties, school districts, and private sector public accountants.

Minn. Stat. § 123B.77, subd. 3, states (emphasis added):

By November 30 of the calendar year of the submission of the unaudited financial data, the district must provide to the commissioner audited financial data for the preceding fiscal year. The audit must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, and the Minnesota legal compliance guide issued by the Office of the State Auditor. An audited financial statement prepared in a form which will allow comparison with and correction of material differences in the unaudited financial data shall be submitted to the commissioner and the state auditor by December 31. The audited financial statement must also provide a statement of assurance pertaining to uniform financial accounting and reporting standards compliance and a copy of the management letter submitted to the district by the school district's auditor.

#### Uniform Financial Accounting and Reporting Standards (UFARS)

The uniform financial accounting and reporting standards to be used by school districts for automated state reporting purposes are described in the [UFARS Manual](#) and in School Business Bulletins issued by the Minnesota Department of Education. The UFARS Manual and School Business Bulletins provide an account code structure and guidance on application of accounting principles. At any point in time, parts of the UFARS Manual may have been superseded by legislative, program, and accounting principle changes. The School Business Bulletins serve as updates to the UFARS Manual for such changes. It is the auditor's responsibility to stay abreast of current developments.

## UFARS Compliance

In order to determine compliance with UFARS, the auditor should consider the following items.

### Account Coding

Conformance with UFARS includes the classification of revenues and expenditures into appropriate UFARS codes. UFARS revenue and expenditure codes consist of 17 digits organized into six dimensions. Chapter Ten of the [UFARS Manual](#) defines how the six dimensions may be combined into valid 17-digit codes for state reporting purposes.

1. Revenue and expenditure account codes that have been developed by school districts for their internal use must be linked (crosswalked) to the appropriate 17-digit UFARS codes. In some cases, the internal district code bears little resemblance to the UFARS code. The underlying UFARS codes, not the district codes, are used for automated reporting to the state.
2. Audit procedures should be developed to ensure that revenues and expenditures have been recorded in the proper UFARS codes.
  - A. Such procedures must include tests of controls as identified in and where required by the American Institute of Certified Public Accountants (AICPA) Statement of Auditing Standards – Clarity, Section AU-C 330, *Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained*. The procedures developed should be in response to assessed risks identified pursuant to Section AU-C 315, *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement*. Sampling may be used to determine the reasonableness of recorded UFARS amounts and classifications based on examination of source documentation.
  - B. Such audit procedures may include the following:
    - Verify appropriate UFARS coding as part of a test of transactions (individual revenue and expenditure transactions).
    - Test linkage (crosswalk) of internal use account codes to the appropriate 17-digit UFARS codes.
    - Review the “UFARS Turnaround Edit Report” for errors. (To access the report, select “Minnesota Funding Reports (MFR)” at <http://w20.education.state.mn.us/MDEAnalytics/Data.jsp>, then use the drop downs.)
    - Verify appropriate UFARS coding as part of testing of revenue and expenditure account totals for the year.
    - Other tests that are considered necessary.

Auditors should use their judgment in determining the nature, timing, and extent of testing necessary to provide a statement of assurance pertaining to UFARS compliance.

## Audit Reporting

The Auditor's Report on Compliance should indicate that the audit was conducted to determine conformance with UFARS standards. Chapter Six of this audit guide includes suggested wording for Auditor's Reports on Compliance.

**OTHER POLITICAL SUBDIVISION  
MISCELLANEOUS PROVISIONS**

## **LEGAL COMPLIANCE AUDIT GUIDE**

### **POLITICAL SUBDIVISION MISCELLANEOUS PROVISIONS**

#### Introduction

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



Minn. Stat. Section	MISCELLANEOUS PROVISIONS			Yes	No	Workpaper Reference
<b>Other Political Subdivisions Miscellaneous</b>						
§ 13D.01	A. Minnesota Open Meeting Law (Applies to governing body of a school district, unorganized territory, county, city, town, or other public body; and to any committee, subcommittee, board, department, or commission of the public body.)					
	1. Were all meetings of the governing board and of any committee, subcommittee, board, department, or commission of the governing board open to the public?					
	2. If a meeting was closed, did the governing 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 political subdivision'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?					
§ 169.022	C. Traffic Violation Administrative Penalties/Safety Classes (Applies to all political subdivisions.)					
	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>  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 political subdivision <u>not</u> established a safety class option in lieu of issuance or court filing of a state uniform traffic ticket?					
§ 471.665, subd. 3	D. Mileage Reimbursement/Automobile allowance (Applies to any county, home rule charter or statutory city, town, or school district.) [Note: The City of St. Paul and counties having more than 550,000 inhabitants have additional authority. <u>See</u> Minn. Stat. § 471.665, subd. 2.]					
	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?					

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
§ 43A.17, subd. 9	E. Compensation Limit (Applies to political subdivisions; including cities, counties, towns, metropolitan or regional agencies, or other political subdivisions, but does not include a hospital, clinic, or health maintenance organization owned by such a governmental unit. It also does <u>not</u> apply to school districts.)			
	1. Did the salary and the value of all other forms of compensation of each county or city employee not exceed 110 percent of the salary of the governor increased by the increase, if any, in the Consumer Price Index as described in Minn. Stat. § 43A.17, subd. 9 (b)? [This amount was \$162,245 for 2014, \$165,003 for 2015, and \$165,333 for 2016.]; <u>or</u>			
	2. Has the entity obtained an increase in the limit from the Commissioner of Management & Budget?			
§§ 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.)			
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, <u>except</u> a town.)			
	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?			
	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; <u>and</u>			
	c. procedures for approval of the travel?			
	4. Is the policy available for public inspection upon request?			

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
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<b>Part II. Audit Conclusion</b>
<p>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 political subdivision miscellaneous provisions.</p>
<p>Conclusion:</p>

**OTHER POLITICAL SUBDIVISIONS  
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 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 <http://www.auditor.state.mn.us/default.aspx?page=statements>.

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	<b>Note:</b> Tax increment includes:			
	1.	Taxes paid by the captured net tax capacity, 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	For interfund loans made after July 31, 2001, to finance TIF eligible expenditures, was the loan or advance authorized by resolution before the money was transferred, advanced, or spent, whichever is earliest?			
§ 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?			
§ 469.178, subd. 7	<b>Note:</b> 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."			

**Part III. Four-Year Knock Down Rule**

§ 469.176, subd. 6	<b>Note:</b> 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.			
	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?			

Minn. Stat. Section	<b>TAX INCREMENT FINANCING</b>	Yes	No	Workpaper Reference
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**Part IV. Decertification**

§ 469.177, subd. 12	A.	Was this TIF district decertified when the earliest of the following times was reached:			
	1.	The statutory maximum duration limit under section 469.176, subdivisions 1.b. to 1.g.;			
§ 469.176, subd. 1	2.	the maximum duration limit as provided in the TIF plan;			
§ 469.1763, subd. 4	3.	beginning in the sixth year following certification of a post-1990 TIF district, the outstanding bonds have been defeased and sufficient tax increment revenues have been set aside to pay outstanding bonds and binding contracts entered into before or within five years of the certification of the district; 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?			
	C.	Did the authority not receive any tax increment revenues from the county auditor following decertification of the district?			

**Part VI. 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 Tax Increment Financing.

Conclusion:
