

**OFFICE OF THE  
STATE AUDITOR**

**Minnesota Legal Compliance  
Audit Guide for  
Local Government**

## ORDER

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

Page 1-1	Depositories of Public Funds and Public Investments,
Page 2-1	Conflicts of Interest,
Page 3-1	Public Indebtedness,
Page 4-1	Contracting - Bid Laws,
Page 5-1	Claims and Disbursements,
Page 6-1	Examples of Auditor's Reports on Compliance,
Page 7-1	Relief Associations,
Page 8-1	Uniform Financial Accounting and Reporting Standards (UFARS) for Minnesota School Districts and Charter Schools,
Page 9-1	Charter Schools,
Page 10-1	Local Government Miscellaneous Provisions, and
Page 11-1	Tax Increment Financing.

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

/s/ Rebecca Otto

Rebecca Otto  
State Auditor

Dated at St. Paul, Minnesota, this 31st day of December 2008.

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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 the task force was to establish minimum compliance guidelines for verification by auditors engaged in the process of auditing political subdivisions of the state.

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 manual is still unsure as to whether there has been legal compliance, he or she should check with legal counsel before rendering the opinion on compliance contained at the end of each section.

### **AUDITOR'S REPORTS ON COMPLIANCE**

Chapter 6 contains five 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.

Other examples might be zoning decisions, such as the granting of variances or special use permits. In any case, the amount of detail which is appropriate for inclusion in the minutes 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.

### HOME RULE CHARTER CITIES AND STATUTORY CITIES

Our state Constitution provides for the creation of home rule charter cities. Minn. Const. art. XII, § 4. Minn. Stat. ch. 410 prescribes the method to create a home rule charter city and the limitations on home rule charter provisions. A home rule charter city may, through its charter, create many of its own rules and limitations as well as related procedural rules.

Statutory cities are cities in which the rights and obligations of the city are prescribed by state statutes. Since this compliance manual was prepared with regard to state statutory compliance, when auditing a home rule charter city, a review of the home rule charter will also be necessary in order to verify legal compliance with the rules unique to that city.

### DESTRUCTION OF RECORDS

Minn. Stat. § 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.

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

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

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

In future years, the *Minnesota Legal Compliance Audit Guide for Local Government* will be updated and additional compliance sections may be added. We invite your comments and suggestions with regard to future editions. Please forward the same to:

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

**DEPOSITORIES OF PUBLIC FUNDS  
AND  
PUBLIC INVESTMENTS**



**LEGAL COMPLIANCE MANUAL**  
**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; or
- [for depository and collateral provisions only--Minn. Stat. §§ 118A.02 and 118A.03 an American] Indian tribal government entity located within a reservation.

Minn. Stat. § 118A.01, subd. 2. This section does not apply to entities whose investment authority is specified under Minn. Stat. ch. 11A or 356A. *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 and it has the power to receive and disburse public funds, then 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

\*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) has 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?			
§ 356A.06, subd. 8a	B. In the case of a relief association:			
	1. Has each depository for assets, not held by the relief association's custodian bank, been designated by the relief association's governing board?			
	2. Is each depository one of the following:			
	a. a national bank;			
	b. an insured state bank;			
	c. an insured credit union; or			
	d. an insured thrift institution?			

<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).			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	<p><b>General Principles of FDIC coverage:</b></p> <ol style="list-style-type: none"> <li>1. Deposits are insured only if the depository is a member of FDIC.</li> <li>2. Deposits in one depository are insured separately from deposits in another depository which is not a branch of the first one. However, a depository and all of the branches associated with it are treated as a single combined depository, and the funds deposited in the branches are aggregated for purposes of insurance coverage.</li> <li>3. The aggregate of a government entity's interest bearing accounts, i.e., savings accounts, NOW accounts, and time deposits (CDs), with the same depository are insured up to a total of \$100,000.* The aggregate of a government entity's non-interest bearing accounts, i.e., non-interest checking accounts, are insured up to a total of \$100,000* and are insured separately from the government entity's interest-bearing deposits. This separate \$100,000 coverage for non-interest bearing accounts only applies if the depository is in the same state as the government entity.</li> <li>4. A public authority, public corporation, public commission, or special district receives separate insurance coverage from its parent government entity only if it was created expressly by state statute and funds have been allocated for its exclusive use and control. Subordinate or nonautonomous divisions, agencies, or boards do not receive separate insurance coverage.</li> <li>5. Funds held for a special purpose and required by law to be paid to bondholders or beneficiaries such as members of pension funds or relief associations are covered up to \$100,000 per bondholder or beneficiary whether the beneficial interest is vested or not. The fiduciary nature must be indicated on the account name in the bank's records.</li> <li>6. If more than one person is legal or official custodian of funds for a government entity, each custodian is separately insured up to \$100,000. Also, if the same person is the custodian of funds for two separate government entities, the funds for the two government entities are separately insured.</li> <li>7. Moneys held by a government entity in trust are insured separately from other government entity funds only <u>if</u> the trust is an irrevocable express trust and the account records indicate the name of both the settlor and the trustee.</li> </ol>			
	<p><b>*Note: Congress has temporarily increased FDIC deposit insurance from \$100,000 to \$250,000 per depositor for the period October 3, 2008, through December 31, 2009. On January 1, 2010, the standard coverage limit will return to \$100,000. In addition, under the FDIC's Transaction Account Guarantee Program, all noninterest-bearing transaction accounts at participating banks are fully guaranteed by the FDIC for the entire amount of the account.</b></p>			
	<p>C. Has the spreadsheet been completed? (See pages 1-10.)</p>			

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

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
§ 118A.03, subd. 3	<p>C. Collateral pledged must equal at least ten percent more than the uninsured and unbonded amount on deposit at the close of the banking day. If irrevocable standby letters of credit from Federal Home Loan Banks are used, the amount must be equal to the amount of the excess deposit at the close of the banking day. The depository may, at its discretion, furnish both a bond and collateral aggregating the required amount.</p> <p>For the purpose of this section, “banking day” has the meaning given in Federal Reserve Board Regulation CC, 12 C.F.R. § 229.2(f), and incorporates a financial institution’s cutoff hour established under Minn. Stat. § 336.4-108.</p>			
§ 118A.03, subd. 5 [12 C.F.R. § 229.2(f)]	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?			
§ 118A.03	2. If other collateral was pledged, was the amount of collateral at least ten percent more than the uninsured amount on deposit at the close of the banking day?			
	D. Assignment [Federal Statutory Requirements]			
[12 U.S.C. § 1823(e)]	1. Was the written assignment approved by the depository’s board of directors or loan committee?			
	2. Was the assignment an official record of the depository?			

<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. Are all investments held in safekeeping? If so:			
	1. Is the government entity’s ownership of all securities in which the fund is invested evidenced by written acknowledgments identifying the securities by:			
	a. the names of the issuers?			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	b. maturity dates?			
	c. interest rates?			
	d. 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 having its principal executive office in Minnesota licensed under chapter 80A, or an affiliate of it, and regulated by the Securities and Exchange Commission?			
	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 a principal executive 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, and which has a principal executive 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)?			
	G. Were all guaranteed investment contracts or agreements only entered into with an issuer or guarantor:			
§ 118A.05, subd. 5	1. 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; and			
	2. whose credit quality for long-term and short-term unsecured debt was rated in one of the highest two categories by a nationally recognized rating agency?			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	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"?			
	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.05?			
§ 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;			
	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 21-7; <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-.05?			
	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 with taxing powers which was rated "AA" or better by a national bond rating service;			

Minn. Stat. Section	<b>DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS</b>	Yes	No	Workpaper Reference
	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 service;			
	5. In commercial paper issued by a United States corporation or its Canadian subsidiary and that:			
	a. was rated in the highest quality category by at least two nationally recognized rating agencies, and			
	b. matures in 270 days or less;			
§ 118A.04, subd. 5	6. In time deposits fully insured by the Federal Deposit Insurance Corporation;			
§ 118A.04, subd. 5	7. In bankers' acceptances issued by United States banks; or			
§ 118A.04, subd. 7	8. 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?			
§ 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, not "high risk?"			







## **CONFLICTS OF INTEREST**

# LEGAL COMPLIANCE MANUAL

## CONFLICTS OF INTEREST

### Introduction

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

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

Exceptions: For practical reasons, the legislature has created certain limited exceptions to the general prohibition. 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. 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 \_\_\_\_\_ 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 manual section.

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

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

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

§ 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: All <u>members</u> present, except the interested officer, must vote in order to produce a unanimous vote.			
	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?			
§ 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?			

Minn. Stat. Section	CONFLICTS OF INTEREST		Yes	No	Workpaper Reference
§ 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 or contracts, adopt 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?				
§ 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?				

Minn. Stat. Section	CONFLICTS OF INTEREST		Yes	No	Workpaper Reference
§ 471.88, subd. 6a	6. Contract with Volunteer Ambulance Service				
	Was the contract with a volunteer ambulance service for the payment of compensation to its members or for payment of retirement benefits to these members?				
§ 123B.195	7. Employment Contracts with School Board Members				
	If the interested officer was a school board member and an employee of the school district:				
	a. Was the employment contract not reasonably anticipated to exceed \$8,000 during the fiscal year?				
	b. Was the contract entered into or renewed at a meeting where all board members were present and was the contract approved by a majority?				
§ 471.88, subd. 12	8. 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	9. 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?				
§ 471.88, subd. 15	10. Contract or Franchise Agreement for Utilities				
	If the city has entered into a contract or franchise agreement with a utility for the provision of utility services and the council member is an employee of the utility:				
	a. Did the council member abstain from voting on any official action relating to the contract or franchise agreement?				
	b. Did the council member disclose the reason for the abstention in the official minutes of the council meeting?				



Minn. Stat. Section	<b>CONFLICTS OF INTEREST</b>	Yes	No	Workpaper Reference
§ 382.18	11. County Officials and Employees			
	<p>Did the county official or employee receive reimbursement from a county for providing licensed or tribally approved family foster care?</p> <p style="text-align: center;"><u>or</u></p> <p>Was the county official or employee a coroner, deputy coroner, coroner's investigator, or medical examiner who received compensation for professional services from a professional corporation or medical provider under contract to provide coroner services to a county?</p>			
§ 471.88, subd. 21	12. School Board Member Spouse/Employee Class			
	A local school board may contract with a class of school district employees such as teachers or custodians where the spouse of a school board member is a member of the class of employees contracting with the school board. If this occurred:			
	a. Did the employee spouse receive no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract?			
	b. In addition, did the school board:			
	(1) have a majority of disinterested school board members vote to approve the contract,			
	(2) direct the school board member spouse to abstain from voting to approve the contract, and			
	(3) publicly set out the essential facts of the contract at the meeting where the contract is approved?			
§§ 412.311; 365.37, subd. 1; 382.18; & 123B.52, subd. 5	13. 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 (B1-11)?			
	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.			



## **PUBLIC INDEBTEDNESS**

# LEGAL COMPLIANCE MANUAL

## PUBLIC INDEBTEDNESS

### Introduction

The power of a government unit to incur indebtedness is governed by statutory and home rule charter provisions. Statutory provisions vary depending on the type of government unit involved.

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

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

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

	During the Year	
	<u>Issued</u>	<u>Outstanding</u>
<b>LONG-TERM BORROWING:</b>		
General Obligation Bonds (Minn. Stat. ch. 475)		
Revenue Bonds (Minn. Stat. ch. 475)		
General Obligation Revenue Bonds (Minn. Stat. ch. 475)		
Capital Notes Home Charter Cities (Minn. Stat. § 410.32)		
County Capital Improvement Bonds (Minn. Stat. § 373.40)		

	During the Year	
	<u>Issued</u>	<u>Outstanding</u>
<b>SHORT-TERM BORROWING:</b>		
Aid Anticipation Certificates (Minn. Stat. §§ 126C.52, 126C.53)		
Tax Anticipation Certificates (Minn. Stat. §§ 126C.52, 126C.53, 412.261)		
Orders Not Paid for Want of Funds (Minn. Stat. §§ 123B.12, 367.19, 412.271)		
Loans Funded or Secured Under United States Agriculture Department Programs (Minn. Stat. § 465.73)		
Temporary Improvement Bonds (Minn. Stat. § 429.091, subd. 5)		
Emergency Certificates of Indebtedness (Minn. Stat. § 475.754)		
Certificates of Indebtedness (Minn. Stat. §§ 412.301, 366.095, 123B.61)		
Warrants Not Paid for Want of Funds (Minn. Stat. §§ 385.31, 385.32, 384.13, 385.05, 383A.50)		
Reverse Repurchase Agreements/Securities Lending Agreements (Minn. Stat. § 118A.05)		
Conditional Sales Contract/Contract for Deed (Minn. Stat. §§ 365.025, 412.221, 465.71)		
Lease Purchase Agreements (Minn. Stat. § 465.71)		

Minn. Stat. Section	PUBLIC INDEBTEDNESS		Yes	No	Workpaper Reference
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<b>Part I. Answer the following questions with respect to all types of indebtedness that were issued during this fiscal year:</b>					
§ 475.51, et. seq.	A. Was council/board approval obtained for new debt issued during this fiscal year?				
§ 475.58, subd. 2	B. For debt funding or refunding obligations issued under Minn. Stat. § 475.58, subd. 2:				
	1. Did the entity's outstanding gross debt exceed 1.62% of its market value?				
	2. Was a listing of the indebtedness to be funded or refunded prepared by the treasurer and recording officer and filed in the office of the recording officer?				
§ 475.58 subd. 2	3. Was the resolution, stating the amount of bonds to be issued and referring to the listing of indebtedness to be funded or refunded, published in the legal newspaper once each week for two successive weeks?				
	Note: Refunding obligations may be authorized by Minn. Stat. § 475.67 for which the notice required here is not applicable.				
	C. Considering the issuance of the obligations, will the net debt (as defined in Minn. Stat. § 475.51, subd. 4) of the municipality not exceed the net debt limit as is applicable below:				
§ 475.53, subd. 1	1. For all municipalities, except school districts and cities of the first class, does the net debt not exceed three percent of the market value of taxable property in the municipality?				
§ 475.53, subd. 3	2. For cities of the first class, does the net debt not exceed two percent of the market value of all taxable property within the city?				
	a. If no, does the net debt not exceed three and two-thirds percent of the market value of all taxable property within the city and does the city charter allow this higher net debt limit?				
§ 475.53, subd. 4	3. For all school districts, except those located wholly or partially within a city of the first class, does the net debt not exceed 15 percent of the actual market value of all taxable property within the district? (Market value is the total value of the district as certified by the county auditor or, where applicable, this value divided by a ratio certified by the Commissioner of Revenue.)				
§ 475.53, subd. 5	4. For school districts located wholly or partially within a city of the first class:				
	a. When the aggregate of the outstanding obligations equals or exceeds 0.7 percent of the market value of the taxable property within the school district, have all obligations then issued had a term of two years or less?				
§ 475.58, subd. 1	D. Was the request to issue the obligations submitted for approval at an election?				

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
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§ 475.58, subd. 4	1. If so, were the proceeds only spent:			
	a. (1) for the purposes stated in the ballot language; or (2) to pay, redeem, or defease obligations and interest, penalties, premiums, and costs of issuance of the obligations; and			
	b. were none of the proceeds spent for a different purpose or for an expansion of the original purpose without approval by a majority of the electors voting on the question of changing or expanding the purpose of the obligations?			
§ 475.58, subd. 1	2. If not, was this issuance exempt from approval by the electors for one of the following reasons:			
	It represented an obligation characterized as:			
	a. any unpaid judgment against the municipality;			
	b. refunding obligations;			
	c. an improvement or improvement program, the obligation for which is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program or from tax increments, including obligations which are the general obligations of the municipality, if the municipality is entitled to reimbursement in whole or in part from the proceeds of such special assessments or tax increments and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from tax increments.			
	d. an obligation which is payable wholly from the income of revenue producing conveniences;			
	e. an obligation exempt from electoral approval by the terms of the home rule charter;			
	f. exempt under the provisions of a law which permits the issuance of obligations of a municipality without an election;			
	g. an obligation to fund pension or retirement fund or postemployment benefit liabilities pursuant to Minn. Stat. § 475.52, subd. 6;			
§ 373.40, subd. 2	h. issued under a capital improvement plan under Minn. Stat. § 373.40, where notice was published at least 14 but not more than 28 days before the county held a hearing for public comment on issuing the bonds under this section;			
	i. issued under Minn. Stat. §§ 469.1813 to 469.1815 (property tax abatement authority bonds), if the bonds are not used for a purpose prohibited under § 469.176, subd. 4g, para. (b);			

Minn. Stat. Section	PUBLIC INDEBTEDNESS		Yes	No	Workpaper Reference
§ 475.58, subd. 3a	j.	issued to refund existing debt of an indoor ice arena that is used predominantly for youth athletic activity as provided in Minn. Stat. § 475.58, subd. 3a;			
§ 475.58, subd. 3b	k.	issued for street reconstruction			
		(1) issued for street reconstruction, including utility replacement and relocation, turn lanes, and other improvements having a substantial public safety function, realignments, other modification to intersect with state and county roads, and the local share of state and county road projects.			
		(2) does not include the portion of project cost allocable to widening a street or adding curbs and gutters where none previously existed, except in the case of turn lanes, safety improvements, realignments, intersection modifications, and the local share of state and county road projects, and the following conditions are met:			
		(a) the streets were reconstructed under a street reconstruction plan that describes the street construction to be financed, the estimated costs, and any planned reconstruction of other streets in the municipality over the next five years, and			
		(b) the plan and issuance of the obligations has been approved by a vote of all of the members of the governing body present at the meeting following a public hearing for which notice has been published in the official newspaper at least 10 days but not more than 28 days prior to the hearing, and			
		(c) no petition requesting a vote on the issuance was signed by voters equal to five percent of the votes cast in the last municipal general election and filed with the municipal clerk within 30 days of the hearing; or			
§ 400.101	l.	issued for solid waste management purposes?			
		Examples are:			
		(1) for acquisition or betterment of solid waste facilities, closure, or postclosure;			
		(2) contingency costs, related transmission facilities, or property or property rights for the facilities.			
§ 475.58, subd. 1a	E.	If the issuance of obligations for the same purpose and in the same amount has previously been proposed to the electors and voted down, did this election take place at least 180 days after the first election?			
	F.	If this is the third request for the same purpose and in the same amount, did this election take place at least one year after the second election?			
§ 475.58, subd. 1	G.	Was the issuance of these obligations approved by a majority of the electors?			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>			Yes	No	Workpaper Reference
§ 475.60, subds. 2 & 3	H. Was the sale of these obligations in accordance with the public notice and public sale requirements of Minnesota statutes?					
§ 475.60, subd. 2	1. If no, was the sale exempt from public sale due to any of the following reasons:					
	a. obligations issued under the provisions of a home rule charter, or under a law specifically authorizing a different method of sale or authorizing them to be issued in such a manner as the council/board may determine;					
	b. obligations sold by the municipality in an amount not exceeding the total sum of \$1,200,000 in any 12-month period;					
	c. except for those issued by a school board, obligations issued in anticipation of the collection of taxes or other revenues appropriated for expenditure in a single year, if sold in accordance with the most favorable of two or more proposals solicited privately;					
	d. obligations sold to any board, department, or agency of the United States of America or the State of Minnesota, in accordance with the rules of the board, department, or agency;					
	e. obligations issued to fund pension and retirement fund liabilities under Minn. Stat. § 475.52, subd. 6; obligations issued with tender options under Minn. Stat. § 475.54, subd. 5a; crossover refunding referred to in Minn. Stat. § 475.67, subd. 13; and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in Minn. Stat. § 475.56;					
	f. obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the governing body of the municipality, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation;					
	g. obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement;					
	h. obligations sold under a bond reinvestment program; or					
	i. obligations which the governing body determines shall be sold by private negotiation if the municipality has retained an independent financial advisor?					
§ 475.55, subd. 1	I. Were all obligations signed manually by one officer of the municipality or by a designated authenticating agent?					
§ 475.65	J. Did the treasurer account for the receipt and disbursement of the proceeds of the issue, for the use named in the resolution, in a separate fund or account in the official financial records of the municipality?					
§ 475.61, subd. 2, & § 475.62	K. Was the appropriate information reported to the county auditor for all new issues of indebtedness so that the county register could be updated? (Information to include: the purpose and date of the issue; the number, denomination, interest rate, and maturity date of each bond; place and time of payment of principal and interest; and the amount of the tax levied for the payment thereof.)					



Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
§ 471.69	L. Limitation on Outstanding Warrants and Orders			
	1. Did the school district, county, statutory city, or town <u>not</u> contract debt, or issue any warrant or order in anticipation of taxes levied or to be levied, in excess of:			
	- the average amount actually received from tax collections for the last three years, plus			
	- ten percent?			
	The Minn. Stat. § 471.69 limitations do not apply to government entities wherein the mineral net tax capacity exceeds 25 percent of its net tax capacity. Nor does it apply to a school district in a city of the first class, which constitutes a single school district.			

<b>Part II. Answer only the questions below that relate to the specific types of debt that were issued during the current fiscal year:</b>				
§ 475.61, subd. 1	A. GENERAL OBLIGATION BONDS:			
	1. Did the municipality, prior to delivery of the obligations, levy by resolution a direct general ad valorem tax upon all taxable property to be spread each year of the obligations?			
	2. For all municipalities other than school districts, were the levies specified and such that if collected in full they, together with estimated collections of special assessments and other revenues pledged for payment of the obligations, will produce at least five percent in excess of the amount needed to meet the principal and interest payments on the obligations when due?			
	3. For all school districts, were the levies specified and such that if collected in full they, together with estimated collection of other revenues pledged for the payment of the obligations, will produce five percent in excess of the amount needed to meet the principal and interest payments on the obligations, rounded to the nearest dollar, when due?			
§ 410.32	B. CAPITAL NOTES: (Applicable for home rule charter cities) (If capital notes were issued under Minn. Stat. § 412.301, go to Part II.K., below.)			
	1. Were the capital notes issued within applicable city debt limits?			
	2. Were the notes issued to purchase "capital equipment," which means public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment and computer hardware and software, whether bundled with machinery or equipment or unbundled, having an expected useful life at least as long as the term of the notes?			
	3. Are the notes payable in not more than ten years?			
	4. Does the total principal amount of the notes issued in a fiscal year not exceed .03 percent of the market value of the taxable property in the city?			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
	5. Has a tax levy been made for the payment of the principal and interest on the notes in accordance with Minn. Stat. § 475.61, as in the case of bonds?			
	6. Were the notes approved by an affirmative vote of two-thirds of the city council?			
§ 373.01, subd. 3	C. CAPITAL NOTES: (For counties)			
	1. Were the capital notes issued within applicable county debt limits?			
	2. Were the notes issued for “capital equipment;” i.e., public safety equipment, ambulance and other medical equipment, road construction or maintenance equipment, and computer hardware and software, whether bundled with machinery or equipment or unbundled, having an expected useful life at least equal to the term of the notes?			
	3. Were the notes payable in ten or less years?			
	4. Was a tax levy made, in accordance with Minn. Stat. § 475.61, for the payment of principal and interest on the notes?			
	5. Did the county board, by resolution, issue the notes?			
§ 126C.53	D. AID ANTICIPATION CERTIFICATES: (This form of borrowing is available only to school districts)			
	1. Was the approving resolution passed by a two-thirds vote of the board membership? (Two-thirds of a quorum is not sufficient.)			
§ 126C.54	2. Do the aid anticipation certificates mature no later than three months after the close of the school year in which the certificates were issued?			
	3. Do the aid anticipation certificates mature no later than the estimated date of receipt of the aids so anticipated?			
§ 126C.52, subds. 2, 3	4. Was the amount borrowed not in excess of 75 percent of the aids receivable by the school district in the fiscal year as estimated and certified by the Commissioner of Education?  <b>[Note: For intermediate school districts, this computation may include membership fees/tuition from member school districts.]</b>			
§§ 126C.52, 126C.53, & 126C.54	E. TAX ANTICIPATION CERTIFICATES: (Statutes relating to school districts only)			
	1. Was the approving resolution passed by a two-thirds vote of the board membership? (Two-thirds of a quorum is not sufficient.)			
	2. Do tax anticipation certificates mature no later than three months after the close of the calendar year in which the certificates were issued?			
	3. Do tax anticipation certificates mature no later than the estimated date of receipt in full of the taxes anticipated?			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
	4. Is the aggregate amount borrowed not more than 75 percent of such taxes which are due and payable in the calendar year, and as to which taxes no penalty for nonpayment or delinquency has attached?			
§ 412.261	F. TAX ANTICIPATION CERTIFICATES: (Statutes relating to statutory cities only)			
	1. Does the total of all certificates issued against any fund for any year with interest thereon until maturity, together with all orders outstanding against the fund, not exceed the total current taxes for the fund uncollected at the time of issue plus the cash on hand in the fund?			
	2. If certificates have been issued against the anticipated tax levy for any fund, have unpaid orders outstanding against the fund been redeemed from the proceeds of the certificates?			
	3. Are the certificates negotiable, payable to the order of the payee, and do they have a definite due date?			
	4. Are the certificates due and payable no later than the first day of April of the year following the year of issuance?			
	5. Were the certificates sold for not less than par and accrued interest?			
	6. Do the certificates bear interest not to exceed seven percent?			
	7. Does each certificate state upon its face the fund for which the proceeds of the certificate shall be used, the total amount of the certificates issued against the fund, and the total amount embraced in the tax levy for that fund?			
	8. Are the proceeds of the taxes assessed on account of the fund against which the certificates are issued and the full faith and credit of the city irrevocably pledged for the redemption of the certificates in the order of issuance against the fund?			
§ 412.271, subd. 3	G. ORDERS NOT PAID FOR WANT OF FUNDS: (For statutory cities)			
	1. For statutory cities, are orders marked "not paid for want of funds" being paid by the treasurer in the order of their presentation?			
§ 367.19	H. ORDERS: (For towns)			
	1. Were orders presented to the treasurer and registered in the order of their presentment?			
	2. Were orders paid in the order they were registered out of the first money that came into the treasurer's hands for that purpose?			
§ 465.73	I. USDA RURAL BUSINESS-COOPERATIVE SERVICE, RURAL HOUSING SERVICE, OR OTHER AGENCY OF THE USDA: (For town halls, city halls, fire halls, and fire equipment only, or libraries or child care facilities if otherwise authorized by law--applicable to cities, counties, and towns)			
	1. Is the amount borrowed from the USDA Rural Business-Cooperative Service, Rural Housing Service, or other USDA agency, within the \$450,000 statutory limit?			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
§ 475.754	J. EMERGENCY CERTIFICATES OF INDEBTEDNESS: (For cities, counties, and towns)			
	1. Do the certificates of indebtedness mature within three years?			
	2. Do the certificates of indebtedness bear interest at a rate not in excess of the allowable rate?			
	3. Are the certificates and interest thereon payable from taxes levied within existing limitations or from other available revenue?			
§§ 412.301, 366.095, & 410.32	K. CERTIFICATES OF INDEBTEDNESS: (Statutory cities and towns) CAPITAL NOTES: (Statutory cities and home rule charter cities) (For home rule charter cities, <u>see also</u> Part II.B, above.)			
	- Cities may issue capital notes (and statutory cities may issue certificates of indebtedness) to purchase public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment and computer hardware and software, whether bundled with machinery or equipment or unbundled, having an expected useful life at least as long as the certificates or notes.			
	- Towns may issue certificates of indebtedness for any lawful purpose.			
	1. If such capital notes or certificates of indebtedness were issued:			
	a. In the case of certificates of indebtedness or notes issued by a statutory city, are they payable in not more than ten years; or			
	b. In the case of capital notes issued by a town, are they payable in not more than five years?			
	2. Was the issuance of the certificates or notes approved by the voters at an election?			
	If not, were the following criteria met:			
	a. The amount of the certificates or notes to be issued does not exceed .25 percent of the market value of taxable property in the city or town; or			
	b. The council or town board resolution determining to issue these certificates or notes was published in the official newspaper, and no petition for an election was filed with the clerk before the expiration of a ten-day period?			
	Published resolution required only if costs exceed 0.25 percent of market value of taxable property in the city or town.			
	c. Was a tax levy made for the payment of the principal and interest on the certificates or notes?			
§ 123B.61	L. CERTIFICATES OF INDEBTEDNESS OR CAPITAL NOTES: (School district - purchase of certain equipment)			
	1. Were the notes or certificates issued to:			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>	Yes	No	Workpaper Reference
	a. purchase vehicles, computers, telephone systems, cable equipment, photocopy and office equipment, technological equipment for instruction, or other capital equipment having an expected useful life at least as long as the terms of the certificates or notes; or			
	b. purchase computer hardware and software, without regard to its expected useful life, together with application development services and training related to the use of the computer; or			
	c. prepay special assessments?			
	2. Were the notes or certificates payable in ten years or less or, if issued to prepay special assessments, were they payable in 20 years or less?			
	3. Did the sum of the tax levies under Minn. Stat. § 123B.61 and § 123B.62 for each year <u>not</u> exceed the lesser of (1) the district's total operating capital revenue, or (2) the sum of the district's levy in the general and community service funds, excluding the adjustments under Minn. Stat. § 123B.61 for the year preceding the year in which the initial debt service levies are certified?			
	Was the district's general fund levy for each year reduced by the sum of (1) the amount of the tax levies for debt service certified for each year for payment of the principal and interest on the certificates or notes issued under Minn. Stat. § 123B.61 as required by Minn. Stat. § 475.61, and (2) the amount of the tax levies for debt service certified for each year for payment of the principal and interest on bonds issued under § 123B.62, and (3) any excess amount in the debt redemption fund used to retire bonds, certificates, or notes issued under Minn. Stat. §§ 123B.61, .62 after April 1, 1997, other than amounts used to pay capitalized interest?			
	4. If the district's general fund levy is less than the reduction, was the balance deducted first from the district's community service fund levy, and next from the district's general fund or community service fund levies for the following year?			
	5. If the district used an excess amount in the debt redemption fund to retire the certificates or notes, did the district report this amount to the Commissioner of Education by July 15 of the following year?			
	6. If the district used an excess amount in the debt redemption fund to retire the certificates or notes, did the district have neither an outstanding capital loan under Minn. Stat. § 126C.69 nor an outstanding debt service loan under Minn. Stat. § 126C.68?			
§§ 365.025 & 412.221	M. <b>CONTRACT FOR DEED/CONDITIONAL SALES CONTRACT:</b> (Applicable to statutory cities and towns)			
	1. Is the seller of the property confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price?			
	2. Is the purchase payable over a period of time not to exceed five years?			
	3. Was the contract approved by the voters at an election?			
	a. If not, was the issue exempt from election because of one of the following reasons:			

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>			Yes	No	Workpaper Reference
	(1)	the contract price of the property to be purchased does not exceed 0.24177 percent of the market value of the city or town; or				
	(2)	the council or board resolution determining to purchase property by such a contract was published in the official newspaper, and no petition for an election was filed with the clerk before the expiration of a ten-day period?				
§ 385.31	N.	<b>WARRANTS: (For counties)</b>				
	1.	If any warrants were presented for payment to the county treasurer when there were insufficient funds in the proper account to pay the warrants:				
	a.	Were warrants paid when sufficient funds became available in the order of their registration, and				
	b.	Were all warrants numbered and registered in the order of presentation?				
	2.	If warrants were presented when there were sufficient funds available for payment, did the county treasurer redeem the same and write:				
	a.	across the entire face of the warrant the word "redeemed,"				
	b.	the date of the redemption, and				
	c.	his or her official signature?				
§§ 385.31 & 385.32	3.	If the county treasurer borrowed money from another fund to pay a warrant presented when there was insufficient money in the account upon which the warrant was drawn, was one of the following conditions met:				
	a.	The county had a market value of taxable property of not less than \$1,033,000,000, and the money was returned to the lending fund as soon as it became available in the borrowing fund; or				
	b.	The county had a market value of taxable property less than \$1,033,000,000, the treasurer obtained the approval of the county board and county auditor, and the money was returned to the lending fund as soon as it became available in the borrowing fund and, in any event, within six months?				

<b>Part III. Answer the following questions for each type of issue that was outstanding at some point during the fiscal year:</b>						
§ 475.61	A.	For all municipalities, except school districts, was the certified levy specified and such that it, together with estimated collections of special assessments and other revenues pledged for the payment of the obligations, will produce at least five percent in excess of the amount needed to meet the principal and interest payments when due?				
		(For purposes of § 475.61, "municipality" means a city of any class, county, town, or school district. See Minn. Stat. § 475.51, subd. 2.)				
	1.	If not, did the council adopt a resolution levying another amount of such taxes?				

Minn. Stat. Section	<b>PUBLIC INDEBTEDNESS</b>		Yes	No	Workpaper Reference
§ 475.61, subd. 1	B. For all school districts, was the certified levy specified and such that it, together with estimated collections of other revenues pledged for the payment of the obligations, will produce five percent in excess of the amount needed to meet the principal and interest payments when due?				
	1. If not, did the board adopt a resolution levying another amount of such taxes?				
§ 475.61, subd. 3	C. For school districts, did the district report to the Commissioner of Education, the district's debt redemption fund balance as of June 30 of the prior year attributable to refunding of existing bonds; and				
	1. Did the commissioner reduce the levies; <u>or</u>				
	2. Did the school board, with the commissioner's approval, retain all or part of the excess balance?				
§ 475.61, subd. 4	D.				
	1. For obligations authorized before July 1, 2005, was the amount of any surplus remaining in the debt redemption fund of a school district when the obligations and interest thereon are paid used to reduce the general fund levies or state aids?				
	2. For obligations authorized on July 1, 2005 or thereafter, was the amount of any surplus remaining in the debt service fund of a school district when the obligations and interest thereon are paid in full (a) appropriated to any other general purpose without any reductions in state aid or levies or (b) used to reduce the general fund levies or state aid?				
§ 471.70	E. Has the principal accounting officer of the municipality reported, on or before February 1 <sup>st</sup> of each year, to the auditor of each county in which the municipality is situated, the total amount of outstanding obligations and the purpose for which issued, as of December 31 <sup>st</sup> of the preceding year?				
	(For the purpose of § 471.70, "municipality" means a city, however organized; a school district, however organized; a town; or any other body corporate and politic created under Minnesota law. <u>See</u> Minn. Stat. § 471.70.)				

<b>Part IV. 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 public indebtedness.</p> <p>Conclusion:</p>

# **CONTRACTING - BID LAWS**



## LEGAL COMPLIANCE MANUAL 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 beginning August 1, 2008:

1. For contracts over \$100,000--sealed bids, solicited by public notice and subject to the particular requirements of the governmental subdivision. [Prior to August 1, 2008, this threshold applied to contracts over \$50,000.\*]
2. For contracts from \$25,000 to \$100,000--sealed bids or direct negotiation, with two quotations whenever possible. [Prior to August 1, 2008, this threshold applied to contracts from \$10,000 to \$50,000.\*]
3. For contracts of \$25,000 or less--open market or quotations (with at least two contract quotations, if practicable). [Prior to August 1, 2008, this threshold applied to contracts of \$10,000 or less.\*]

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.

Finally, beginning July 1, 2007, counties, cities, and the largest 25 percent of Minnesota school districts based on enrollment have been able to use best value procurement as an alternative for construction, building, alteration, improvement, repair, and maintenance contracts. 2007 Minn. Laws ch. 148, art. 3; Minn. Stat. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subsd. 3a, 4a, and 5. Best value procurement will be available to other local governments as they are phased in pursuant to Minn. Stat. § 16C.28, subd. 1a.

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.02, subd. 4a] and described in the solicitation document.” Minn. Stat. § 16C.28, subd. 1(a) (2) (2007). Before administering best value procurement procedures, personnel must be trained in the best value RFP process. *See* Minn. Stat. § 16C.03, subd. 19.

\*For pre-August 1, 2008, contracts, apply Chapter 4 from the 2007 Legal Compliance Audit Guide.  
12/08

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**  
 (Note: For pre-August 1, 2008, contracts, apply Chapter 4 from the 2007 Legal Compliance Audit Guide.)

	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?			
	(3) Are the bids on file? (See Introduction section entitled "Destruction of Records," pages iii through iv.)			
Minn. Stat. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subs. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, sub. 1a	If a best value procurement procedure was used as an alternative:			
	(1) was the municipality a county, city or one of the school districts with the highest 25% enrollment in the state?			
Minn. Stat. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subs. 3a, 4a, and 5	(2) Was the contract a contract for construction, building, alteration, improvement, repair or maintenance?			
§ 16C.28, subd. 1c	(3) Did the solicitation document state the relative weight of price and other selection criteria?			
	(4) 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
	(5)	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?			
	(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. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subs. 3a, 4a, and 5	b.	Best value procurement alternative			
§ 16C.28, sub. 1a		If a best value procurement procedure was used as an alternative:			
	(1)	was the municipality a county, city or one of the school districts with the highest 25% enrollment in the state?			
Minn. Stat. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subs. 3a, 4a, and 5	(2)	Was the contract a contract for construction, building, alteration, improvement, repair or maintenance?			
§ 16C.28, subd. 1c	(3)	Did the solicitation document state the relative weight of price and other selection criteria?			
	(4)	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
	(5)	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. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subds. 3a, 4a, and 5	b. Best value procurement alternative				
§ 16C.28, sub. 1a	If a best value procurement procedure was used as an alternative:				
	(1)	was the municipality a county, city or one of the school districts with the highest 25% enrollment in the state?			
Minn. Stat. §§ 123B.52, subd. 1b; 375.21, subd. 1b; 412.311, subd. 2, and 471.345, subds. 3a, 4a, and 5	(2)	Was the contract a contract for construction, building, alteration, improvement, repair or maintenance?			
§ 16C.28, subd. 1c	(3) Did the solicitation document state the relative weight of price and other selection criteria?				
	(4) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?				
	(5)	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:				

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	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.03, subd. 3	D. 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?			
§ 471.345, subd. 5a	E. County or town contracts for the rental of equipment estimated to be \$60,000 or less may, at the discretion of the board, be made by direct negotiation by obtaining two or more quotations when possible. If this method was used, were quotations kept on file for at least one year?			
§ 471.345, Subd. 15	F. If the municipality contracted for the purchase of supplies, materials, or equipment without regard to competitive bidding requirements, was the purchase through 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?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	<p>Note: Exceptions to the competitive bidding requirements of Minn. Stat. § 471.345 exist for water tank service contracts, procurement from economically disadvantaged persons, shared hospital or ambulance service purchasing, fuel contracts for generation of municipal power, procurement from rehabilitation facilities, energy efficient projects, 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. <u>See</u> Minn. Stat. §§ 471.345, subs. 5b, 8, 10, 11, 12, 13, and 19; and 400.04.</p>			
§ 471.35	G. Other Considerations			
	1. Specifications on contracts. If sealed bids were solicited, were the specifications written so as not to exclude all but one type or kind of supplies or equipment?			
	2. Interest in contract. ( <u>See</u> Conflicts of Interest Section, page 2-1.)			
§ 574.26	3. Contractor's performance and payment bonds. Contractors doing public work are required to give both a performance bond and a payment bond in an amount not less than the contract price if the contract is more than \$75,000.			
	a. Were bonds received for all contracts greater than \$75,000?			
	b. Were the amounts sufficient?			
§ 574.261, subd. 1a	Note: If the project is under \$50,000, contractor may provide for irrevocable bank letter of credit in place of a performance bond provided the letter of credit is subject to the same conditions as a performance bond.			
	For school district contracts limited to the purchase of a finished tangible product, <u>see</u> note in Part II.D., <u>infra</u> .			
§ 471.6161	H. Group Insurance			
	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.			
	1. Was the request for proposals (RFP) in writing?			
	2. Did the RFP include:			
	a. the coverage to be provided;			
	b. the criteria for evaluation of proposals; and			
	c. the aggregate claims record for the appropriate period?			
	3. Was the RFP notice placed in a newspaper or trade journal at least 21 days before the final date for submitting proposals?			
	4. Was a written rationale explaining the political subdivision's decision prepared prior to entering into a contract?			
	5. Was the term of the contract five years or less, including extensions?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
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**Part II. Laws Relating to Specific Municipalities**

§ 375.21, subd. 1; for Road Construction Contracts, <u>see also</u> § 160.17	A. Counties			
	1. Advertisement for Bids. (For sales of personal property, <u>see</u> 2, below.) If the contract was awarded by bidding:			
	a. Were bids advertised for in a qualified legal newspaper of the county? (For alternative methods, <u>see</u> section I.D., above.)			
	b. If the contract is for the purchase of property or for work and labor, was the public notice, stating time and place for bids, published two weeks prior to the deadline?			
	c. If the contract is for the construction or repair of roads, bridges, or buildings, was the public notice, stating time and place for bids, published three weeks prior to the deadline?			
	d. Did the published notice include the time and place of awarding the contract?			
	e. Did the published notice include a brief description of the work?			
§ 373.01, subd. 1(c)	2. Advertisement for bids or proposals – sale of personal property \$15,000 or more.			
	a. If the County sold personal property, the value of which is estimated to be \$15,000 or more:			
	(1) Were bids or proposals advertised in the county’s official newspaper, on the county’s Web site, or in a recognized industry trade journal?			
	(2) If the County posted on its Web site or published in a trade journal, did the county publish, either in minutes or separately, in the official newspaper a summary of all requests for bids or proposals that the county advertises on its Web site or in the trade journal?			
	(3) Did the county publish in the official newspaper, on the Web site or in a trade journal before it solicited or accepted bids or proposals by the electronic selling process authorized in Minn. Stat. § 471.345, subd. 17?			
§ 375.21, subd. 1	3. Awarding the Contract. (For contracts awarded by bidding.)			
	a. Was the contract awarded to the lowest responsible bidder?			
	b. If the contract was not awarded to the lowest bidder, were reasonable and appropriate reasons documented in the minutes?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	c. Were the names of the bidders and the amount of the bids put on record?			
	d. Was the contract executed in writing?			
<u>See also</u> § 574.26	e. If the contract involved work and labor for the construction or repair of roads, bridges, or buildings, was a faithful performance bond received from the contractor?			
§ 375.21	4. Emergency Exceptions to bidding.			
	a. In case of an emergency arising from the destruction or impassability of road or bridges by floods, rain or snow, or other casualty, or the breaking or damaging of any property in the county if the public health, safety, or welfare would suffer by delay, contracts for purchase or repairs may be made without advertising for bids; but, in that case, the action of the board shall be recorded in its official proceedings.			
§ 375.22	b. In case of an emergency arising from breakage, damage, or decay in county property that cannot be allowed to wait for the time required to advertise for bids, repairs may be made without advertising for bids if the work is authorized by a majority of the board of county commissioners and the action is ratified and recorded in the official proceedings of the board at its next meeting.			
	c. If any emergency exceptions were taken by the county, were the required board actions recorded in the official proceedings?			
§ 373.01, subd. 1	5. Sale of Real Property.			
	a. If the county sold real property by advertising for bids:			
	(1) Were bids advertised for in the official newspaper of the county for three consecutive weeks? (For alternative methods, <u>see</u> section I.D., above.)			
	(2) Were bids advertised at least once in a newspaper of general circulation in the area where the property is located?			
	(3) Did the notice contain the time and place for considering proposals as well as a legal description of the real property involved?			
	(4) Was the real property sold to the highest bidder?			
	If no, were reasons documented in the minutes and were the reasons stated reasonable and appropriate?			
	b. If the county employed a broker to sell the property;			
	(1) Had the property remained unsold after advertising for and consideration of bids or proposals?			
	(2) Did the broker sell the property for not less than 90 percent of its appraised market value as determined by the county?			



Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(3) Was the broker's fee paid from the proceeds of the sale, and did it not exceed ten percent of the sale price?			
	c. If the county sold real property without advertising for bids or employing a broker:			
	(1) Did the county own the real property in fee simple and could it not be improved because of noncompliance with local ordinances regarding minimum area, shape, frontage, or access?			
	(2) Were all owners of adjoining land given written notice at least 30 days before the sale?			
§ 103E.705, subd. 5	6. Draining Systems.			
	a. If the estimated cost of repairs and maintenance of one drainage system for one year will be less than the greater of \$100,000, or \$1,000 per mile of open ditch in the ditch system, the drainage authority may have such work done without advertising for bids or entering into a contract. Were these conditions met?			
§ 412.311	B. Statutory Cities			
	1. Advertisement for Bids.			
	a. Was the request for bids published at least once in the official newspaper? (For alternative methods, <u>see</u> section I.D., above.)			
	b. Was the notice published at least ten days in advance of the last date for submission of bids?			
	2. Was the contract awarded to the lowest responsible bidder?			
	3. If the contract was not awarded to the lowest bidder, were reasonable and appropriate reasons documented in the minutes?			
§ 365.37; for Road Construction Contracts, <u>see also</u> § 160.17	C. Towns			
	1. Advertisement for Bids.			
	a. Was a public notice of the time and place to submit bids posted in the three most public places in the town for ten days or published for two weeks in a newspaper generally circulated in the town? (For alternative methods, <u>see</u> section I.D., above.)			
	2. If there was no notice given or sealed bids solicited, did a special emergency exist?  (A special emergency is a situation requiring immediate action essential to the health, safety, or welfare of the town.)			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 365.37	3. Was the contract awarded to the lowest responsible bidder?			
	4. If the contract was not awarded to the lowest bidder, were reasonable and appropriate reasons documented in the minutes?			
§ 123B.52, subd. 1	D. Schools (For contracts awarded by bidding)			
	1. Advertisement for Bids.			
	a. Was two weeks published notice of the request for bids made in the official newspaper? (For alternative methods, <u>see</u> Section I.D., above.)			
	b. Did the notice state the time and place for submitting bids?			
	c. Did the notice include a brief description of the subject matter?			
§ 123B.52, subd. 1	2. Awarding the Contract.			
	a. Was the contract awarded to the lowest responsible bidder?			
	b. If the contract was not awarded to the lowest bidder, were reasonable and appropriate reasons documented in the minutes?			
	c. Was the contract executed in writing?			
	d. Was a faithful performance bond received from the contractor?			
	Note: If the contract is limited to the purchase of a finished tangible product, the board may require, at its discretion, a performance bond in the amount it deems necessary.			
§ 123B.52, subd. 1	3. Are records retained on all bids with:			
	a. the names of the bidders;			
	b. the amounts of the bids;			
	c. an indication as to the successful bidder?			
§ 123B.52, subd. 1a	4. If a project labor agreement is used to construct or repair a facility:			
	a. Did the school board adopt at a public meeting a written resolution authorizing the project labor agreement? And			
	b. Did the school board publish notice of the meeting in the district's official newspaper at least 30 days in advance?			
§ 123B.52, subd. 1	5. Tie Low Bids or Single Bids.			
	a. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price.			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(1) If there were any tie low bids, was the ultimate price paid less than or equal to the tie low bid price?			
	b. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid.			
	(1) If there were any cases of single bids, was the ultimate price paid less than or equal to the bid?			
§ 123B.52, subds. 1 & 3	6. Direct Negotiated Contracts.			
	a. Contracts for the purchase of perishable foods. Perishable food items (except milk for school lunches and vocational training programs) in any amount may be made by direct negotiation with two or more quotations received without advertising for bids. Were written quotations received and were they kept on file for at least one year?			
	b. Contracts for transportation/fuel. A contract for transportation of school children or for the purchase of petroleum heating fuel or fuel for vehicles may be made by direct negotiation by obtaining two or more written quotations when possible or on sealed bids.			
	(1) If a contract was made by direct negotiations, were quotations requested by published notice at least 30 days before the contract was awarded?			
	(2) Were written quotes received and were all quotations kept on file for at least one year?			
§ 123B.52, subd. 6	7. School District Surplus Computers Exception.			
	If the school district disposed of a surplus school computer and related equipment without complying with the competitive bidding requirements of Minn. Stat. § 471.345:			
	- did the school district dispose of the surplus computer and related equipment by conveying the property and title to another school district, the State Department of Corrections, the board of trustees of the Minnesota state colleges and universities, or the family of a student residing in the district whose total family income meets the federal definition of poverty?			



## **CLAIMS AND DISBURSEMENTS**

## **LEGAL COMPLIANCE MANUAL**

### **CLAIMS AND DISBURSEMENTS**

#### Introduction

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

“Municipality” for the purposes of this section 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. This section also applies to statutory cities.

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.			

Minn. Stat. Section	<b>CLAIMS AND DISBURSEMENTS</b>	Yes	No	Workpaper Reference
§ 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 requested by law?			
§ 471.425, subd. 4a	3. 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?			
	Note: The interest penalties in these questions do not apply to good faith disputes.			

§ 471.381 <b>Part II. Electronic or Wire Transfer Cities, Towns, and Counties</b>				
	A. If the city, town, or county used electronic or wire transfers to pay claims or make investments:			
	1. Were the electronic identifiers used to authenticate or validate this government action approved by the governing board?			
	2. Had the city, town, or county established policies and procedures to ensure the validity of the electronic approvals?			
§ 385.071	3. In the case of a county, did the county board establish policies and procedures for investment and expenditure transactions by electronic transfer?			

<b>Part III. Claims and Disbursements - Statutory Cities</b>				
§ 412.271, subd. 1	A. For all disbursements made on orders, were the orders drawn by the mayor and clerk upon the treasurer?			
	B. Have all claims been audited and allowed by the city council, <u>except</u> when issued for payment of judgments, salaries, and wages previously fixed by the council or by statute, principal and interest on obligations, rent and other fixed charges, the exact amount of which has been previously determined by contract authorized by the council or as provided in E and F below, or if the city has delegated authority to approve claims under Minn. Stat. § 412.271, subd. 8?			
§ 412.271, subd. 2	C. Claims and Payment			
	1. Payroll			
	a. If the city used an electronic time recording system, did the governing body adopt policies to ensure that the timekeeping and payroll methods used are accurate and reliable?			
	b. If the city did not use an electronic time recording system:			
	(1) Has the clerk maintained a payroll record giving the name of each employee and the number of hours or days worked by each?			



Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
	(2) Has the timekeeper, supervisor, or other officers or employees having knowledge of the facts, signed a declaration indicating the facts recited on the payroll are correct to the best of the declarant's information and belief?			
	(3) Have the claims for payroll been signed in proper form or declaration under Minn. Stat. § 412.271, subd. 2?			
	2. Other claims for payment for goods or services.			
	a. Was the claim prepared in written items (where possible in the ordinary course of business)?			
	b. Has a declaration for payment been signed that the claim is just and correct and no part of it has been paid, <u>or</u> was the declaration made by endorsement as provided in Minn. Stat. § 412.271, subd. 3?			
§ 412.271, subd. 3	D. Endorsement of Claims			
	1. Has the clerk endorsed each claim with either "disallowed" or "allowed in the sum of \$ _____," if approved in whole or in part and specifying the items rejected, if any?			
	2. Has each order been drawn so that when signed by the treasurer it became a check?			
	3. Has each order presented to the treasurer and not paid for want of funds been so marked and paid in order of its presentation with interest from the date of presentation?			
§ 412.271, subd. 4	E. Immediate Payment of Claims			
	1. Have all claims based on contract paid prior to a council meeting been signed by a majority of the council and formally approved at the next council meeting?			
§ 412.271, subd. 5	F. Imprest Funds			
	1. Has a custodian been appointed for each imprest fund?			
	2. Has money for the imprest fund been transferred from the general fund?			
	3. Have all claims been itemized and presented to the council at the next council meeting after payment has been made?			
	4. Has the council issued orders covering imprest fund claims?			
	5. Have all claims been approved in full and/or has the custodian replaced the difference for which he or she is personally responsible?			

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
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<b>Part IV. Independent Board Powers--Statutory Cities (Utility &amp; Park Boards)</b>				
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§ 412.271, subd. 6	A. Has any independent board, which is authorized to disburse funds without the approval of the council, met the requirements of Minn. Stat. § 412.271, subsd. 4 and 5 (found as Part II.E. and II.F., above)?			
	Note: In reviewing the above subdivisions with regard to independent boards, the term "council" shall be considered to be the "board or commission" and the money for the fund may be obtained from any undedicated fund under its jurisdiction.			

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

<b>Part VI. Delegation of Authority to Pay Claims - Counties and Statutory Cities</b>				
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§§ 412.271, subd. 8, & 375.18, subd. 1b	A. Did the county board or city council delegate its authority to pay certain claims made against the county or city by adopting a resolution authorizing a specified county or city administrative official to pay the claims that meet the standards and procedures established by the board or council?			
	B. Does the county board or city council have adequate internal accounting and administrative control procedures to ensure the proper disbursement of public funds, including regular and frequent review of the county or city administrative officials' actions by the board or council?			
	C. Was a list of all claims paid under the procedures established by the county board or city council presented to the board or council at the next regularly scheduled meeting after payment of the claim? <u>and</u>			
	1. In the case of a city, is the city one which prepares annual audited financial statements which have been attested to by an independent certified public accountant, public accountant, or the state auditor? <u>or</u>			
	2. In the case of a county, is the county not a home rule charter county for which the county charter provides an alternative method of paying claims?			

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
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<b>Part VII. Client-Directed Support Program - For Counties</b>				
§ 375.18, subd. 1c	A. If the county has implemented a client-directed support program that authorizes responsible parties for county human services and public health clients to expend public funds for the benefit of the clients without complying with Minn. Stat. §§ 475.18, subd. 1b; 384.13; 471.38; or 471.391:			
	1. Was the program implemented by the county board upon approval by the department of human services?			
	2. Does the county board have internal accounting and administrative control procedures to ensure proper disbursement of public funds?			
	3. Do these procedures include county-owned demand deposit accounts and periodic review of the program by the county board?			

<b>Part VIII. Electronic Funds Transfer - For School Districts</b>				
§§ 471.38, subds. 3 and 3a	A. School districts may make electronic funds transfers under certain conditions.			
	1. A school district may make electronic funds transfers for:			
	a. a claim for payment from an imprest payroll bank account or investment of excess money;			
	b. payment of tax or aid anticipation certificates;			
	c. payment of contributions to a pension or retirement fund;			
	d. vendor payments; and			
	e. payment of bond principal, bond interest, and a fiscal agent service charge from the debt redemption fund.			
	B. Did the school district use electronic funds transfers only for the above enumerated transactions?			
	C. Did the school district enact a plan containing the following policy controls requiring:			
	1. annual delegation of authority to make electronic funds transfers to a designated business administrator?			
	2. the disbursing bank to keep a certified copy of delegation of authority?			
	3. identification of the initiator of each electronic transfer?			
	4. the initiator to document the request and obtain approval for each transfer from the designated business administrator, prior to the transaction?			
	5. written confirmation of each transaction within one business day?			

Minn. Stat. Section	<b>CLAIMS AND DISBURSEMENTS</b>	Yes	No	Workpaper Reference
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	6. a list of transactions to be submitted to the school board at the next regular meeting after the transaction?			
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§ 375.171	<b>Part IX. Credit Card Purchases - For Counties</b>			
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	A. If a county officer or employee made a purchase on behalf of the county by credit card:			
	1. Had the county board authorized the use of the credit card by the officer or employee;			
	2. Was the officer or employee otherwise authorized to make a purchase on behalf of the county; and			
	3. Did the purchase otherwise comply with all statutes, rules, or county policies applicable to county purchases?			
	B. If a county officer or employee made a purchase by credit card that was not approved by the county board, was the officer or employee held personally liable for the amount of the purchase?			
§ 375.17	C. If publishing of disbursement was required, were actual vendors providing goods and services to the public entity identified and not just the credit card company?			

§ 367.18	<b>Part X. Claims and Disbursements – For Towns</b>			
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	A. Were amounts paid on orders paid by the town treasurer, on the order of the town board, signed by the chair and countersigned by the clerk? [Note: In towns with a clerk/treasurer, the clerk/treasurer need sign only once.			
	B. Was each order drawn so that when signed by the treasurer or clerk/treasurer in an appropriate place, it becomes a check on the town depository?			

<b>Part XI. Payments With Credit Cards - For Cities, Towns and School Districts</b>				
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§§ 471.382 & 123B.02, subd. 23	A. If a city, town, or school district officer or employee made a purchase on behalf of the city, town, or school district by credit card:			
	1. Had the city council, town board, or school district 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 city, town, or school district; and			
	3. Did the purchase otherwise comply with all statutes, rules, and city, town, or school district policies applicable to city, town, or school district purchases?			
	B. If a city, town, or school district officer or employee made a purchase by credit card that was not approved by the city council, town board, or school district, was the officer or employee held personally liable for the amount of the purchase?			



**EXAMPLES OF AUDITOR'S REPORTS ON  
COMPLIANCE**

# LEGAL COMPLIANCE MANUAL

## EXAMPLES OF AUDITOR'S REPORTS ON COMPLIANCE

Minnesota Legal Compliance	
Local Governmental Units (Other Than School Districts)	6-1
School Districts	6-2
Charter Schools	6-3
Police and Fire Relief Associations	6-4
Combined Report	
Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i>	6-5

Auditor's legal compliance report for local governmental units *other than school districts*. Includes separate paragraphs for cities and counties or other local governments; use just one of the two. (Note: This paragraph should be eliminated from the auditor's report.)

## AUDITOR'S REPORT ON LEGAL COMPLIANCE

(Governing Body)  
(Entity)

We have audited the financial statements of (list opinion units) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_ and have issued our report thereon dated \_\_\_\_\_.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the *Minnesota Legal Compliance Audit Guide for Local Government*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65. Accordingly, the audit included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

[Paragraph to be used in audits of cities and counties]

The *Minnesota Legal Compliance Audit Guide for Local Government* covers seven categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and Tax Increment Financing. Our study included all of the listed categories, \*except that we did not test for compliance in (identify area not tested) because (state reasons for excluding any areas from audit).

[Paragraph to be used for other governmental entities]

The *Minnesota Legal Compliance Audit Guide for Local Government* contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, claims and disbursements, and miscellaneous provisions. Our study included all of the listed categories, \*except that we did not test for compliance in (identify area not tested) because (state reasons for excluding any areas from audit).

The results of our tests indicate that for the items tested, \_\_\_\_\_ complied with the material terms and conditions of applicable legal provisions, \*except as described below (or in the Schedule of Findings).

This report is intended solely for the information and use of \_\_\_\_\_ and is not intended to be, and should not be, used by anyone other than those specified parties.

(Signature)

(Date)

Note: This report on compliance may be issued as a separate letter or combined with the "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*" (see example on page 6-6).

\*If the rest of the sentence does not apply, put a period here and continue to the next paragraph.



Auditor's legal compliance report for *school districts*. (Note: This paragraph should be eliminated from the auditor's report.)

## AUDITOR'S REPORT ON LEGAL COMPLIANCE

(Governing Body)  
(Entity)

We have audited the financial statements of (list opinion units) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_ and have issued our report thereon dated \_\_\_\_\_.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the *Minnesota Legal Compliance Audit Guide for Local Government*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65. Accordingly, the audit included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The *Minnesota Legal Compliance Audit Guide for Local Government* covers seven categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, claims and disbursements, uniform financial accounting and reporting standards for school districts, and miscellaneous provisions. Our study included all of the listed categories, \*except that we did not test for compliance in (identify area not tested) because (state reasons for excluding any areas from audit).

The results of our tests indicate that for the items tested, \_\_\_\_\_ complied with the material terms and conditions of applicable legal provisions, \*except as described below (or in the Schedule of Findings).

This report is intended solely for the information and use of \_\_\_\_\_ and is not intended to be, and should not be, used by anyone other than those specified parties.

(Signature)

(Date)

Note: This report on compliance may be issued as a separate letter or combined with the "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*" (see example on page 6-6).

\*If the rest of the sentence does not apply, put a period here and continue to the next paragraph.

Auditor's legal compliance report for *charter schools*. (Note: This paragraph should be eliminated from the auditor's report.)

## AUDITOR'S REPORT ON LEGAL COMPLIANCE

(Governing Body)  
(Entity)

We have audited the financial statements of (list opinion units) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_, and have issued our report thereon dated \_\_\_\_\_.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the *Minnesota Legal Compliance Audit Guide for Local Government*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65. Accordingly, the audit included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The *Minnesota Legal Compliance Audit Guide for Local Government* covers two categories of compliance to be tested in audits of charter schools: uniform financial accounting and reporting standards and charter schools. Our study included the listed categories, \*except that we did not test for compliance in (identify areas not tested) because (state reasons for excluding any areas from audit).

The results of our tests indicate that, for the items tested, \_\_\_\_\_ complied with the material terms and conditions of applicable legal provisions, \*except as described below (or in the Schedule of Findings).

This report is intended solely for the information and use of \_\_\_\_\_ and is not intended to be, and should not be, used by anyone other than those specified parties.

(Signature)

(Date)

Note: This report on compliance may be issued as a separate letter or combined with the "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*" (see example on page 6-6).

\*If the rest of the sentence does not apply, put a period here and continue to the next paragraph.

Auditor's legal compliance report for police and fire relief associations. (Note: This paragraph should be eliminated from the auditor's report.)

## AUDITOR'S REPORT ON LEGAL COMPLIANCE

(Governing Body)  
(Entity)

We have audited the financial statements of the \_\_\_\_\_ Relief Association as of and for the year ended \_\_\_\_\_, and have issued our report thereon dated \_\_\_\_\_.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the *Minnesota Legal Compliance Audit Guide for Local Government*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65. Accordingly, the audit included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The *Minnesota Legal Compliance Audit Guide for Local Government* covers three categories of compliance to be tested in audits of relief associations: deposits and investments, conflicts of interest, and relief associations. Our study included all of the listed categories, \*except that we did not test for compliance in (identify areas not tested) because (state reasons for excluding any areas from audit).

The results of our tests indicate that, for the items tested, the \_\_\_\_\_ Relief Association complied with the material terms and conditions of applicable legal provisions, \*except as described below (or in the Schedule of Findings).

This report is intended solely for the information and use of the \_\_\_\_\_ Relief Association and is not intended to be, and should not be, used by anyone other than those specified parties.

(Signature)

(Date)

\*If the rest of the sentence does not apply, put a period here and continue to the next paragraph.

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 Local Government*. (Note: This paragraph should be eliminated from the auditor's 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***

(Governing Body)  
(Entity)

We have audited the financial statements of (*list related opinion units*) of \_\_\_\_\_ as of and for the year ended \_\_\_\_\_, and have issued our report thereon dated \_\_\_\_\_. We conducted our audit 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.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered \_\_\_\_\_'s internal control over financial reporting as a basis for designing our auditing procedures 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.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency 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 misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the \_\_\_\_\_'s ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the \_\_\_\_\_'s financial statements that is more than inconsequential will not be prevented or detected by the \_\_\_\_\_'s internal control. We consider the deficiencies described in the accompanying Schedule of Findings to be significant deficiencies in internal control over financial reporting. (List deficiency reference numbers here.)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the \_\_\_\_\_'s internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe none of the significant deficiencies described above is a material weakness. \*

### Compliance and Other Matters

As part of obtaining reasonable assurance about whether the \_\_\_\_\_'s financial statements are free of 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

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the provisions of the *Minnesota Legal Compliance Audit Guide for Local Government*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65. Accordingly, the audit included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

[Paragraph to be used for counties or cities]

The *Minnesota Legal Compliance Audit Guide for Local Government* contains seven categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and Tax Increment Financing. Our study included all of the listed categories, \*\*\*except that we did not test for compliance in (*identify area not tested*) because (*state reasons for excluding any areas from audit*).

[Paragraph to be used for school districts]

The *Minnesota Legal Compliance Audit Guide for Local Government* covers seven categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, claims and disbursements, uniform financial accounting and reporting standards for school districts, and miscellaneous provisions. Our study included all of the listed categories, \*\*\*except that we did not test for compliance in (*identify area not tested*) because (*state reasons for excluding any areas from audit*).

[Paragraph to be used for audits of charter schools]

The *Minnesota Legal Compliance Audit Guide for Local Government* covers two categories of compliance to be tested in audits of charter schools: uniform financial accounting and reporting standards and charter schools. Our study included the listed categories, \*\*\*except that we did not test for compliance in (*identify areas not tested*) because (*state reasons for excluding any areas from audit*).

[Paragraph to be used for other local governments]

The *Minnesota Legal Compliance Audit Guide for Local Government* contains six categories of compliance to be tested: contracting and bidding, deposits and investments, conflicts of interest, public indebtedness, claims and disbursements, and miscellaneous provisions. Our study included all of the listed categories, \*\*\*except that we did not test for compliance in (*identify area not tested*) because (*state reasons for excluding any areas from audit*).

The results of our tests indicate that, for the items tested, \_\_\_\_\_ complied with the material terms and conditions of applicable legal provisions, \*\*\*except as described in the Schedule of Findings items (*list related finding reference numbers*).

\_\_\_\_\_’s written response to the significant deficiencies, material weaknesses, and legal compliance findings (*adjust as necessary for what they responded to*) identified in our audit has not been subjected to any auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the \_\_\_\_\_ (governing body), management, others within \_\_\_\_\_, \*\*\*\* and should not be, used by anyone other than those specified parties.

(Signature)

(Date)

- \* If conditions believed to be material weaknesses are disclosed, the report should identify the material weaknesses that were identified by the auditor. The last sentence of this paragraph should be replaced with language such as the following: “However, of the significant deficiencies described above, we consider items [list the reference numbers of the related findings] to be material weaknesses.”
- \*\* If instances of noncompliance were identified, replace the last sentence with: “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 as items [list finding reference numbers].
- \*\*\* If the rest of the sentence does not apply, put a period here and continue to the next paragraph.
- \*\*\*\*For Single Audits, distribution should include “federal awarding agencies and pass-through entities.”

## **RELIEF ASSOCIATIONS**

# LEGAL COMPLIANCE MANUAL

## RELIEF ASSOCIATIONS

### Introduction

For each of the different types of relief associations, the following checklist cites the primary statutory provisions applicable to relief associations:

#### Police Relief Associations

Generally - Minn. Stat. §§ 423A.01-.22

Minneapolis - Minn. Stat. §§ 69.77, .80 and § 423B.01-.23

Fairmont - Minn. Stat. §§ 423.41-.62 (2000); see 2002 Minn. Laws, ch. 392, art. 1, § 8

#### Salaried Firefighters' Relief Associations

Generally - Minn. Stat. §§ 423A.01-.22  
Minn. Stat. §§ 69.77, .80

Minneapolis - Minn. Stat. ch. 423C

Bloomington - Minn. Stat. ch. 424 (2000) (to the extent applicable); see 2002 Minn. Laws, ch. 392, art. 1, § 7

#### Volunteer Firefighters' Relief Associations

Minn. Stat. §§ 69.771-.776; Minn. Stat. § 69.80

Minn. Stat. §§ 424A.001-.10

Relief associations are also subject to the depository designation and collateralization requirements of Chapter 1 (Minn. Stat. §§ 356A.06, subd. 8a, and 118A.02-.03) and the Conflict of Interest provisions of Chapter 2 herein. Minn. Stat. § 6.495 requires the audit of both the special and general funds.

Relief associations are subject to their own bylaws and articles of incorporation, subject to statutory provisions. Therefore, a review of the bylaws and articles of incorporation, as well as applicable special laws, is essential to the legal compliance audit of the relief association. Special laws are found in Table 1 of Minnesota statutes.



Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
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<b>Part I. Special Fund/General Fund (For All Relief Associations)</b>
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§§ 424A.05, 424.15 (2000), & 423.50 (2000) <i>See 423C.04 &amp; 423B.06</i>	A. Were amounts paid to the relief association from the city and state (and for volunteer firefighters' relief associations' donations specified for support of the special fund) set aside and deposited in the special fund?			
§§ 424A.06, 424.15 (2000), & 423.50 (2000) <i>See 423C.04</i>	B. Were all other funds deposited in the association's general fund, if established?			
§§ 349.12, subd. 25(b)(6), & 471.6151	C. Were gambling proceeds <u>not</u> placed in the special fund?			
§§ 424A.05, 423.51 (2000), & 423C.04 <i>See 423B.07</i>	D. Were <u>benefits</u> paid from the special fund only for:			
	1. the relief of sick, injured, and disabled members of the relief association, their surviving spouses and orphans (or in the case of volunteer firefighters' relief associations, the member's surviving spouse and surviving children, or if none, to designated beneficiaries or to the estate of a deceased active firefighter as allowed by Minn. Stat. § 424A.05, subd. 3); and			
	2. the payment of disability and service pensions to members of the relief association;			
	3. for volunteer firefighters' relief associations, fees, dues, and assessments allowed by Minn. Stat. § 424A.05, subd. 3(5); and			
	4. were disbursements authorized by the bylaws?			
§ 69.80	E. Were <u>administrative expenses</u> from the special fund paid only as follows:			
	1. <u>office expenses</u> , including (but not limited to) rent, utilities, equipment, supplies, postage, periodical subscriptions, furniture, and fixtures;			
	2. salaries and itemized expenses of the president, secretary, and treasurer, or their designees, and any other official of the relief association to whom a salary is payable under bylaws or articles of incorporation in effect on January 1, 1986;			
	3. tuition, registration fees, organizational dues, and other authorized expenses of officers or members of the board of trustees incurred attending educational conferences, seminars, or classes that relate to the administration of the relief association;			
	4. audit, actuarial, medical, legal, investment expenses, and performance evaluation expenses;			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	5. reasonable and necessary expenses of officers, board of trustees, or their designees, actually paid and incurred;			
	6. <u>premiums</u> on fiduciary liability <u>insurance</u> and official bonds for officers, members of the board of trustees, and employees of the relief association;			
	7. salaries of administrative personnel; and			
	8. for the Minneapolis Police Relief Association, disbursements authorized by Minn. Stat. § 423B.07?			
§ 424A.06	F. Were all other expenses paid from the general fund?			
	1. In the case of a volunteer firefighters' relief association, were disbursements from the general fund made for a purpose authorized by the association's articles of incorporation or bylaws?			
§ 69.80	G. If an expense is related to purposes of both funds, were the expenses properly allocated to each fund based on the benefits derived by such fund?			

§ 356A.06 <b>Part II. Investments (Short List)</b>				
§ 356A.06, subd. 6	The following securities are proper investments for relief associations with assets with a book value of \$1,000,000 or less and which do not use:			
	- a registered investment advisor to invest at least 60 percent of its assets (book value);			
	- the State Board of Investment (SBI) to invest at least 60 percent of its assets (book value); or			
	- a combination of a registered investment advisor and the SBI for at least 75 percent of its assets (book value). For relief associations that meet the above criteria, the following investments are permitted. For relief associations that do not meet the above criteria, go to Part III, <u>infra</u> .			
	A. Certificates of Deposit			
	If the fund invested in certificates of deposit, were they issued by financial institutions insured by the Federal Deposit Insurance Corporation (FDIC), the Federal Savings and Loan Insurance Corporation (FSLIC), the National Credit Union Administration (NCUA), or are fully collateralized by pledged marketable securities pursuant to Minn. Stat. § 118A.03?			
	B. Savings Accounts			
	1. If the fund placed money in a savings account with a financial institution, was it fully insured by FDIC/FSLIC/NCUA?			
§ 356A.06, subd. 6	C. Government Obligations			
	1. If the fund is invested in federal governmental obligations, were the obligations issued by the United States, its agencies, or instrumentalities, or by an organization established and regulated by an act of Congress?			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	2. If the fund is invested in state or local obligations:			
	a. Were the obligations issued by the state, its agencies or instrumentalities, municipalities, or other governmental or political subdivision?			
	3. State or Federal Obligation Requirements			
	a. Does the obligation's investment yield equal or exceed the stated investment yield of debt securities not exempt from federal income taxation and of comparable quality?			
	b. If the obligation was a revenue bond, was the governmental or political entity issuing it completely self-supporting for the last five years? or			
	c. If the obligation was not a revenue bond:			
	(1) was it backed by the full faith and credit of the applicable taxing jurisdiction; and			
	(2) was the issuing entity not in default on the payment of interest or principal on this or any other nonrevenue bond obligation issued in the past ten years?			
	D. Corporate Obligations			
	1. If the fund invested in corporate obligations, were they:			
	a. issued by a United States corporation;			
	b. with an average annual net pre-tax earnings in the past five years that exceeded annual interest and principal payments on the total issued debt of the corporation by 50 percent; and			
	c. the obligation in question was rated in one of the top three quality categories by Moody's Investors Service, Inc., or Standard and Poor's Corporation?			
	E. Investment Companies			
	1. If the fund invested in an open-end investment company:			
	a. was it registered under the Federal Investment Company Act of 1940; and			
	b. did it only invest in those investments defined in A through D above?			
	F. Were all of the association's investments permitted in A through E above?			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
§§ 69.77, subd. 9, 69.775; & 356A.06	<b>Part III. Investments (Long List)</b>			
§ 356A.06, subds. 6 & 7	The following securities are proper investments for:			
	- All relief associations with assets with a book value in excess of \$1,000,000; and			
	- Those relief associations with assets with a book value of \$1,000,000 or less, provided that the association:			
	- uses the services of a registered or licensed investment advisor for the investment of at least 60 percent of its assets (book value);			
	- uses the services of the State Board of Investment (SBI) for the investment of at least 60 percent of its assets (book value); or			
	- uses a combination of services of an investment advisor and the SBI for the investment of at least 75 percent of its assets.			
§ 356A.06, subd. 7	A. Government Obligations			
	1. If the fund invested in government obligations, were they: bonds, notes, bills, mortgages, or other evidences of indebtedness backed by the full faith and credit of the issuer or rated among the top four quality rating categories by a nationally recognized rating agency?			
	2. Were the government obligations guaranteed or insured issues of:			
	a. the United States, its agencies or instrumentalities, or organizations created and regulated by an act of Congress;			
	b. Canada or its provinces;  Note: Interest must be payable in United States dollars.			
	c. the states, their municipalities, political subdivisions, agencies or instrumentalities;			
	d. the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other United States government-sponsored organization of which the United States is a member?  Note: Interest must be payable in United States dollars.			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	<b>B. Corporate Obligations</b>			
	1. If the association invested in corporate obligations:			
	a. were they bonds, notes, debentures, transportation equipment obligations, or any longer-term evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States or its states or the Dominion of Canada or its provinces (principal and interest payable in United States dollars)?			
	2. Were the corporate obligations rated among the top four quality categories by a nationally recognized rating agency?			
	<b>C. Other Obligations</b>			
	1. If the association invested in bankers' acceptances or deposit notes of United States banks, were they issued by banks rated in the highest four quality categories by a nationally recognized rating agency?			
	2. If the association invested in certificates of deposit (CDs), were the CDs:			
	a. issued by United States banks or savings institutions rated in the highest four quality categories by a nationally recognized rating agency, <u>or</u> whose certificates of deposit were fully insured by federal agencies; or			
	b. issued by credit unions in amounts up to the limit of insurance coverage provided by the National Credit Union Administration?			
	3. If the association invested in commercial paper, was it issued by a United States corporation or its Canadian subsidiary and was it rated in the highest two quality categories by a nationally recognized rating agency?			
	4. If the association invested in mortgage participation or pass-through certificates evidencing interest in pools of first mortgages or trust deeds, were they:			
	a. on improved real estate located in the United States;			
	b. with a loan to value ratio of 80 percent or less as calculated under Minn. Stat. § 61A.28, subd. 3; <u>and</u>			
	c. in all other respects, in conformance with the requirements of Minn. Stat. § 61A.28, subd. 3?			
	5. Minnesota Housing Finance Agency			
	a. If the association purchased from the Minnesota Housing Finance Agency all or part of any pool of residential mortgages, were they:			
	(1) not in default; and			
	(2) previously financed by the issuance of bonds or notes of the agency?			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	b. If the association entered into a commitment with the agency, at the time of an issue of bonds or notes, to purchase at a specified future date, the amount of mortgage loans then outstanding and not in default that have been made or purchased from the proceeds of the bonds or notes:			
	(1) was the specified future date not more than 12 years from the date of the issue?			
	c. If the association entered into agreements with the agency for the investment of any portion of the funds of the agency:			
	(1) did the agreement cover the period of the investment, withdrawal privileges, and any guaranteed rate of return?			
	6. If the association entered into any repurchase or reverse repurchase agreements, was the subject matter/collateral for them:			
	a. letters of credit; or			
	b. securities that the relief association could have directly invested in?			
	7. If the association invested in any guaranteed investment contracts:			
	a. were they issued by an insurance company or bank rated in the top four quality categories by a nationally recognized rating agency; or			
	b. were they alternative guaranteed investment contracts where the underlying assets complied with the requirements of Minn. Stat. § 56A.06, subd. 7?			
	8. If the fund put assets in a savings account, was the account fully insured by federal agencies?			
	9. If the fund invested in asset-backed securities, were they rated in the top four quality categories by a nationally recognized rating agency?			
	<b>D. Corporate Stocks</b>			
	If the association invested in the stock or convertible issues of a corporation,			
	1. Was the corporation at least one of the following:			
	a. organized under the laws of the United States or its states;			
	b. organized under the laws of the Dominion of Canada or its provinces; or			
	c. listed an exchange regulated by an agency of the United States or of the Canadian national government?			
	2. Did the total value of corporate stock investments (D), developed market foreign stocks investments (E), other investments (I), equity investments in commingled or mutual investments (F), real estate investment trust and related investments (G), and exchange traded funds (H), as adjusted for realized gains and losses, <u>not</u> exceed 85 percent of the lesser of:			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	a. the market or book value of the fund; <u>and</u>			
	b. did the investments never exceed five percent of the total outstanding shares of any one corporation?			
	E. Developed Market Foreign Stocks Investments			
	If the association invested in foreign stock, was the foreign stock sold on an exchange in a developed market country that is included in the Europe, Australia, and Far East Index?			
	F. Commingled or Mutual Investments			
	If the association invested in index funds or mutual funds, including index mutual funds,			
	1. Did it do so through bank-sponsored collective funds and shares of open-end investment companies registered under the Federal Investment Company Act of 1940; <u>and</u>			
	2. Did the investments of the index or of the mutual fund comply with A. Government Obligations to H. Exchange Traded Funds?			
	G. Real Estate Investment Trust; Related Investments			
	1. If the association invested in real estate investment trusts, were they secured by mortgages or deeds of trust <u>and</u> sold on an exchange?			
	2. Did the association invest only in insurance company commingled accounts, including separate accounts, of a debt or equity nature?			
	H. Exchange Traded Funds			
	If the covered pension plan invested in exchange traded funds, did all investments meet the maximums, requirements and limitations in Minn. Stat. § 356A.06, subd. 7, (c) (Government Obligations, A, above); (d) (Corporate Obligations, B, above); (e) (Other Obligations, C, above); (f) (Corporate Stocks, D, above); (g) (Developed Market Foreign Stocks Investments, E, above); (h) (Commingled or Mutual Investments, F, above); or (i) (Real Estate Investment Trust; Related Investments, G, above) as applicable?			
	I. Other Investments			
	1. The association may invest in the following investments, subject to the restrictions below:			
	a. <u>Venture Capital</u> investment businesses through participation in <u>limited partnerships</u> and corporations;			
	b. <u>Real estate ownership interests or loans</u> secured by mortgages or deeds of trust through investment in <u>limited partnerships</u> or <u>bank sponsored collective funds</u> ;			
	c. <u>Regional and mutual funds</u> through bank sponsored <u>collective funds</u> and open-end <u>investment companies</u> registered under the Federal Investment Company Act of 1940 (which do not qualify under F (Commingled or Mutual Investments));			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	d. <u>Resource</u> investments through <u>limited partnerships, private placements, and corporations</u> ; and			
	e. International debt securities and emerging market equity securities.			
	2. If the association invested in any of the above enumerated investments:			
	a. did the total value of the investments equal 20 percent or less of market value of the fund?			
	b. were there <u>at least</u> four unrelated owners of the investment (other than the covered pension plan) made under E.1.(a), (b), (c), and (d) above?			
	c. did the association's participation equal 20 percent or less of the total value of the investment for investments made under H.1.(a), (b), (c), and (d) above?			
	d. did the association's limited partnership participation and activity <u>not</u> create general liability on the part of the association?			
§ 356A.06, subd. 7a	J. Options and Future Contracts			
	If the association invested in any put and call options or future contracts, were they:			
	1. related to those securities that are proper direct investments for the association;			
§ 356A.06, subd. 7(b)	2. traded on a contract market regulated by a federal agency or by a financial institution regulated by a governmental agency;			
	3. was the agreement entered into with a fully offsetting amount of cash or securities; and			
	4. were only securities authorized by Minn. Stat. § 356A.06, <u>excluding</u> those under Minn. Stat. § 356A.06, subd. 7(g)(1)(i) - (iv), accepted as collateral or offsetting securities?			
	K. If the relief association entered into an agreement to lend securities:			
	1. was the agreement concurrently collateralized with cash or securities with a market value of at least 100 percent of the market value of the loaned securities; and			
	2. were only securities authorized by Minn. Stat. § 356A.06, <u>excluding</u> those under Minn. Stat. § 356A.06, subd. 7(g)(1)(i) - (iv), accepted as collateral?			
	L. Were each of the association's investments permitted in sections A through K above?			



Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
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<b>Part IV. Investments - All Reliefs</b>				
§§ 69.77, subd. 9; 69.775; & 11A.17	A. If the relief association used the State Board of Investment (SBI) to manage all or part of its investments, did the governing board of the association certify funds turned over to the SBI?			
§ 356.64	B. If the relief association invested in ownership interests or loans secured by mortgages or deeds of trust, was the real estate non-farm real estate located in Minnesota?			
§§ 69.775 & 69.77, subd. 9	C. Mutual funds and debt obligations			
	1. For the Bloomington Firefighters Relief Association, the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association, the Minneapolis Police Relief Association, and the Virginia Fire Department Relief Association:			
	a. If the association invested in open-end investment companies registered under the Federal Investment Company Act of 1940:			
§ 356A.06, subd. 7	(1) did the portfolio investments of the investment companies comply with the type of securities authorized for investment listed above in Part III? <u>and</u>			
	(2) did this investment not exceed 75 percent of the market value of the special fund?			
	b. If the association invested in domestic government and corporate debt obligations that are not rated in the top four quality categories by a nationally recognized rating agency or comparable unrated securities:			
	(1) did the percentage of these assets not exceed the lesser of five percent of the total assets of the special fund or 15 percent of the special fund's nonequity assets; <u>and</u>			
	(2) was the special fund's participation limited to 50 percent of a single offering of the debt obligations; <u>and</u>			
	(3) was the special fund's participation limited to 25 percent of the issuer's debt obligations that are not rated in the top four quality categories?			
	2. For other relief associations:			
	Did the association's investment in open-end investment companies registered under the Federal Investment Company Act of 1940, with investments that consist of securities listed above in Part III, not exceed 75 percent of the value of the assets of the special fund, not including any money market mutual funds?			
§ 356A.06, subd. 8b	D. Before the relief association completed an investment transaction with or in accord with the advice of a broker:			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	1. did the relief association provide annually to the broker a written statement of investment restrictions applicable to the relief association under state law or the relief association's investment policy;			
	2. did the broker acknowledge in writing annually the receipt of the statement of investment restrictions and agree to handle the relief association's investments and assets in accordance with the provided investment restrictions; and			
	3. did the broker provide this written acknowledgment to the chief administrative officer of the relief association?			
§ 356A.06, subds. 6 & 7	E. Investment in annuities is not permitted by the short list or the long list.			
	Did the relief association <u>not</u> invest in annuities?			

**Part V. Investment Reporting**

§ 356.219	- Minn. Stat. § 356.219 requires local relief associations that are not "fully invested" with the Minnesota State Board of Investment (SBI) to file certain information about their investments with the Office of the State Auditor (OSA).			
	- A local relief association is "fully invested" with the SBI if all of the association's assets "beyond sufficient cash equivalent investments to cover six months expected expenses" are invested through the SBI. Such associations may file a waiver form with the OSA.			
	- A relief association not fully invested with the SBI, with a market value of \$25,000,000 or more at the beginning of the calendar year, must report specified information, broken down into accounts, portfolios, or asset classes, on the appropriate form prescribed by the OSA. The specific requirements are based on criteria set forth in Minn. Stat. § 356.219.			
	- A relief association not fully invested with the SBI, which has a total market value that does not equal or exceed \$ 25,000,000, must report information about its total portfolio, broken down on a quarterly basis. It must also collect and retain additional information.			
	- All relief associations must submit investment policy statements and subsequent revisions to the OSA.			
§ 356.219	A. For all relief associations:			
	1. Has the relief association submitted the investment policy statement and subsequent revisions?			
	B. For a relief association that had a total market value of \$25,000,000 at the beginning of the calendar year:			
	1. Has the relief association filed all of the required investment information on the appropriate form prescribed by the OSA; or			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	2. Is the association excluded from the reporting requirement because all of its assets “beyond sufficient cash equivalent investments to cover six months expected expenses” are invested in the SBI, and has the relief association filed Form ID/Waiver SBI with the OSA?			
	C. For a relief association that does not have a total market value of \$25,000,000 or more:			
	1. Has the relief association filed all of the required investment information with the OSA on the appropriate form prescribed by the OSA; or			
	2. Is the association excluded from the reporting requirement because all of its assets “beyond sufficient cash equivalent investments to cover six months expected expenses” are invested in the SBI, and has the relief association filed Form ID/Waiver SBI with the OSA?			
	3. Has the relief association retained: (1) information specifying the date and amount of each injection and withdrawal to each investment account and investment portfolio, and (2) the market value of each investment account and investment portfolio at the beginning of each calendar year and for each quarter?			

<b>Part VI. Economic Interest Statement</b>				
§ 356A.06, subd. 4	A. For volunteer firefighter relief associations (other than the Bloomington Firefighters Relief Association), nonprofit firefighting corporations, and paid firefighter and police relief associations with assets under \$8,000,000:			
	1. Did each member of the governing board and chief administrative officer file with the relief association or firefighting corporation a statement of economic interest indicating:			
	a. the person’s principal occupation and principal place of business;			
	b. whether or not the person has an ownership of or interest of ten percent or greater in an investment security brokerage business, a real estate sales business, an insurance agency, a bank, a savings and loan, or another financial institution; and			
	c. any relationship or financial arrangement that can reasonably be expected to give rise to a conflict of interest?			
	B. For the Bloomington Firefighters Relief Association and paid firefighter and police relief associations with assets of \$8,000,000 or more:			
	1. Did each member of the governing board and chief administrative officer file with the relief association a statement of economic interest containing the information required in Minn. Stat. § 10A.09, subd. 5, and any other information requested by the fiduciary or governing board to disclose reasonably foreseeable potential and actual conflicts of interest?			
	C. For all relief associations and firefighting corporations mentioned in A or B above:			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	1. Did the chief administrative officer, by January 15, annually transmit a certified listing of all individuals who have filed statements of economic interest with the relief association or firefighting corporation during the preceding 12 months and the address of the office of the pension plan to the Campaign Finance and Public Disclosure Board?			
<b>Part VII. Other Requirements for Relief Associations</b>				
§ 69.77, subd. 10	A. The relief association was the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association or Police Relief Association, the Virginia Fire Department Relief Association, or the Bloomington Firefighter's Relief Association:			
	1. Did the association prepare an actuarial valuation showing the condition of the special fund as of December 31 every year?			
	2. Was the actuarial valuation prepared pursuant to the guidelines of Minn. Stat. §§ 356.215, 356.216, and any applicable standards established by the Legislative Commission on Pensions and Retirement?			
	3. Was a copy of the actuarial valuation sent on or before July 1 of the following year to:			
	a. the Executive Director of the Legislative Commission on Pensions and Retirement;			
	b. the Director of the Legislative Reference Library;			
	c. the municipal governing body; and			
	d. the State Auditor?			
§ 69.773, subd. 2 <u>See GASB 25,</u> para. 35	B. If the relief association was a volunteer firefighter relief association paying or allowing monthly service pensions:			
	1. Did the association prepare an actuarial valuation showing the condition of the special fund at least every two years as required by Generally Accepted Accounting Principles (GAAP)?			
	2. Was the valuation prepared pursuant to Minn. Stat. § 69.773, subd. 2, and the guidelines of Minn. Stat. §§ 356.215, subd. 8, 356.216, and any applicable standards established by the Legislative Commission on Pensions and Retirement?			
	3. Was a copy of the actuarial valuation sent to:			
	a. the municipal governing body; and			
	b. the State Auditor?			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
§ 69.773, subd. 1	C. If the relief association previously provided a monthly benefit service pension, but discontinued that practice and either replaced the monthly benefit amount with a lump sum benefit amount consistent with Minn. Stat. § 424A.02, subd. 3, or purchased an annuity in the same amount as the monthly benefit from an insurance company licensed to do business in Minnesota, were the actuarial, financial, and minimum obligation requirements of Minn. Stat. § 69.772 complied with?			
§ 69.051, subd. 2	D. Did the relief association obtain from its treasurer a faithful performance surety bond as follows:			
	1. for salaried relief associations, in a reasonable amount acceptable to the municipality; or			
	2. for volunteer fire relief associations, in an amount equal to at least ten percent of the relief association's assets (except that it need not exceed \$500,000)?			
	E. Was the municipal contribution to the special fund determined as follows:			
	1. for police relief associations and paid firefighter relief associations, pursuant to Minn. Stat. § 69.77, subd. 4;			
	2. for volunteer firefighter relief associations paying lump sum service pensions, pursuant to Minn. Stat. § 69.772, subd. 3; or			
	3. for volunteer firefighter relief associations paying monthly service pensions, pursuant to Minn. Stat. § 69.773, subd. 5?			
	F. Did the association certify the financial requirements of the special fund and the minimum obligation of the municipality:			
§ 69.77, subd. 5	1. between August 1 and September 1 in the case of police and paid firefighter relief associations; and			
§§ 69.772, subd. 4, & 69.773, subd. 5	2. prior to August 1 in the case of volunteer firefighter associations?			
§§ 69.77, subd. 6; 69.771, subd. 2; 69.772, subd. 4; & 69.773, subd. 5	G. Did the municipality pay the minimum obligation as certified by the relief association?			
§§ 69.77, subd. 7; 69.772, subd. 4; & 69.773, subd. 5	H. If the municipality did not pay the minimum obligation as certified, did the officers of the relief association certify the unpaid amount to the county auditor?			

**Part VIII. Requirements for Salaried Relief Associations  
(Police and Firefighters)**

§ 423A.22, subd. 2	A. Did the municipality designate an official to receive and deposit all money received for the special fund?			
§ 423A.22, subd. 2	B. Did the official designated countersign all disbursements of \$5,000 or more?			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	C. If the association hired an institution to administer its financial affairs, did the official designated by the municipality:			
	1. approve the trustee agreement; and			
	2. countersign authorizations of all disbursements for \$5,000 or more?			
§ 423A.22, subd. 1	D. Did the board report to the municipality at least once in the preceding year, regarding:			
	1. the required municipal support under Minn. Stat. § 69.77;			
	2. the financial condition of the relief association under Minn. Stat. § 69.051;			
	3. the association's investment objectives and performance;			
	4. surety bond amounts for the secretary and treasurer pursuant to Minn. Stat. § 69.051, subd. 4; and			
	5. the annual administrative budget?			
	E. Did the board of trustees include at least two members appointed by the municipality?			
§ 423A.21, subd. 2	1. Did the municipal representatives have full rights and privileges of board membership, including full voting powers?			
	2. Was at least one municipal representative on any investment subcommittee formed by the board?			

**Part IX. Requirements of Volunteer Relief Associations**

§ 424A.02, subd. 3	A. On or before August 1, did the secretary or some other officer of the volunteer firefighters' relief association calculate and certify to the municipality's governing body the "average amount of available financing per active covered firefighter for the most recent three-year period," pursuant to Minn. Stat. § 424A.02, subd. 3?			
	B. Did the service pension amounts paid by the relief association not exceed the maximum service pension as calculated pursuant to Minn. Stat. § 424A.02, subd. 3?			
§ 424A.04	C. If the relief association was directly associated with a municipal fire department, did it have a board of trustees consisting of nine members?			
	1. Does the board consist of:			
	a. six members elected from the membership of the relief association; and			
	b. three members, consisting of:			
	(1) one elected municipal official designated by the municipal governing board,			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
	(2) one elected or appointed municipal official designated by the municipal board, and			
	(3) the chief of the municipal fire department?			
	D. For a relief association that is a subsidiary of an independent non-profit firefighting corporation, did it have a nine-member board of trustees, with six members elected by the association, two elected or appointed officials designated by the municipality's governing board that year, and the fire chief serving with the independent non-profit firefighting corporation?			
	1. If two or more municipalities contracted with the firefighting corporation, was there one municipal trustee from each of the two largest municipalities?			
	2. If the relief association is directly associated with a fire department operated as or by a joint powers entity, were the two municipal trustees appointed by the joint powers board that year?			
	3. If the relief association is directly associated with a fire department service area township, were municipal trustees appointed by township board?			
	E. If a member of the board of trustees was a retired member of the relief, did the bylaws of the association specifically allow such membership?			
	F. If the relief association lacks municipal members provided for in Minn. Stat. § 424A.04, subd. 1(a), (b), or (c), because the fire department is not located in or associated with an organized municipality, joint powers entity, or township, were the municipal members appointed from the fire department service area by the board of commissioners of the applicable county?			
§ 424A.02, subd. 1	G. If a relief association paid a service pension or disability benefit to a former member who has not separated from active service with the fire department to which the relief association is directly associated:			
	1. Was the person employed subsequent to retirement by the municipality or firefighting corporation to perform duties within the fire department or corporation on a full-time basis; and			
	2. Were the bylaws of the relief association amended to provide for the payment of a service pension or disability benefit for such full-time employees?			

Minn. Stat. Section	<b>RELIEF ASSOCIATIONS</b>	Yes	No	Workpaper Reference
§ 424A.04, subd. 3	H. Conditions on Relief Association Consultants			
	<p>For the purposes of this question, a consultant is any person employed under contract to provide legal or financial advice and who is or represents to the volunteer firefighter relief association that the person is an actuary, a licensed public accountant or a certified public accountant, an attorney, an investment advisor or manager, an investment counselor, an investment advisor or manager selection consultant, a pension benefit design advisor or consultant, or any other financial consultant.</p> <p>If the relief association hired or contracted with a consultant to provide legal or financial advice, did the relief association obtain and did the consultant provide a copy of the consultant's certificate of insurance?</p>			

<b>Part X. Appropriation of State Aid (Police and Firefighters' Relief Associations)</b>				
§ 69.031	A. If all police officers are members of a relief association, or if a duly incorporated firefighters' relief association is organized:			
	1. Did the municipal treasurer transmit the state aid from the Commissioner of Finance to the relief association treasurer:			
	a. within 30 days of receipt for police and paid firefighters' relief associations; or			
	b. for a fire relief association which had not filed a financial report with the municipality, at a later date upon the relief association's filing a financial report?			
	2. Did the relief association treasurer immediately deposit the warrant in the association's special fund?			
	B. If all police officers are members of the Public Employees Police and Fire Fund (PEPFF), was the total state aid applied toward the municipal contribution under Minn. Stat. §§ 353.65, subd. 3, and 353.665, subd. 8(b), if applicable?			
§§ 69.031, subd. 5(b)(3), & 423A.01, subd. 2(6)	C. If retirement coverage is provided by both a police relief association or firefighter relief association (other than one in a first class city with a population over 300,000) and PEPFF, did the municipality:			
	1. transmit the total state aid (aid) to the relief association treasurer for deposit in the special fund;			
	2. use the aid to apply toward the municipality employer contribution to the PEPFF pursuant to Minn. Stat. §§ 353.65, subd. 3, and 353.665, subd. 8(b), if applicable; <u>or</u>			
	3. allocate the aid proportionally to the relief association and PEPFF based on each organization's respective number of active full-time peace officers (as defined by Minn. Stat. § 69.011, subd. (1)(g)) or full-time salaried firefighters receiving retirement coverage from each?			





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

## LEGAL COMPLIANCE MANUAL

### 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. 5. This requirement applies to charter schools under Minn. Stat. § 124D.10, subd. 8.

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 Accountant's (AICPA) Statement of Auditing Standards (SAS) No. 110, *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 SAS No. 109: *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement*. Sampling may be used to determine the reasonable 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.
    - Obtain "UFARS Chapter 10 Edit Report" and review for exceptions.
    - 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.

# **CHARTER SCHOOLS**

# LEGAL COMPLIANCE MANUAL

## CHARTER SCHOOLS

### Introduction

In 2001, the Minnesota Legislature amended Minn. Stat. § 124D.10. *See* 2001 Minn. Laws, 1st Sp. Sess. ch. 6, art. 2, §§ 20-26. It specifically made charter schools subject to many statutes that apply to school districts.

It also mandated that the audits of charter schools be conducted in compliance with Minn. Stat. § 6.65, which mandates legal compliance audits and the promulgation of this Legal Compliance Audit Guide. Minn. Stat. § 124D.10, subd. 8(i).

In response to these legislative directives, this section 9 has been added to the Legal Compliance Audit Guide. Please note that charter schools must also comply with the Uniform Financial Accounting and Reporting Standards (UFARS) for Minnesota schools. *See* section 8.

Minn. Stat. Section	CHARTER SCHOOLS	Yes	No	Workpaper Reference
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<b>Part I. Conflicts of Interest – Charter School Specific Provisions</b>				
§ 124D.10, subd. 4a	- A member of a charter school board of directors is prohibited from serving as a member of the board of directors or as an employee or agent of or a contractor with a for-profit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities.			
	- The conflict of interest provisions under Minn. Stat. § 124D.10, subd. 4a, do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the board of directors.			
	- The conflict of interest provisions under Minn. Stat. § 124D.10, subd. 4a, do not apply to a teacher who provides services to a charter school through a cooperative formed under Minn. Stat. ch. 308A when the teacher also serves on the charter school board of directors.			
	A. If a member of the charter school board of directors serves as a member of the board of directors or as an employee or agent of or a contractor with a nonprofit entity with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities:			
	1. Did the member of the charter school board of directors disclose all potential conflicts to the Commissioner of Education?			

<b>Part II. Contracts Generally</b>				
§§ 124D.10, subd. 8(i); 471.87; 471.88, subd. 1	- 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>			
§§ 124D.10, subd. 8(i), & 471.88, subd. 1	A. Unanimous Approval			
	If there were any transactions between the governing body and an interested officer, did the governing body approve the transaction by unanimous vote?			
	Note: All <u>members</u> present, except the interested officer, must vote in order to produce a unanimous vote.			
§§ 124D.10, subd. 8(i), & 471.88, subd. 2	B. Statutory Exceptions			



Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
	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?			
§§ 124D.10, subd. 8(i), & 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?			
§§ 124D.10, subd. 8(i), & 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?			
§§ 124D.10, subd. 8(i), & 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.)			
§§ 124D.10, subd. 8(i), & 471.89, subd. 2	b. Did the governing body, prior to performance of the contract or contracts, adopt 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?			
§§ 124D.10, subd. 8(i), & 471.89, subd. 3	c. Prior to payment of the contract, did the involved officer file with the clerk of the governing body an affidavit stating:			

Minn. Stat. Section	CHARTER SCHOOLS	Yes	No	Workpaper Reference
	(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; and			
	(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?			
§§ 124D.10, subd. 8(i), & 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?			
§§ 124D.10, subd. 8(i), & 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?			
§§ 124D.10, subd. 8(i), & 471.88, subd. 12	6. Contract for Construction Materials or Contracting Services			
	If an interested officer contracted with the government unit to provide construction materials or services, or both:			
§§ 124D.10, subd. 8(i), & 471.88, subd. 12	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 unit for consideration, did the officer refrain from voting?			
§§ 124D.10, subd. 8(i), & 471.88, subd. 13	7. Contract for Renting Space			

Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
	If a charter school officer rented space in a charter school facility, was the rate commensurate with that paid by other members of the public?			
§§ 124D.10, subd. 8(i), & 471.88, subd. 15	8. Contract or Franchise Agreement for Utilities			
	If the charter school has entered into a contract or franchise agreement with a utility for the provision of utility services and the board member is an employee of the utility:			
	a. Did the board member abstain from voting on any official action relating to the contract or franchise agreement?			
	b. Did the board member disclose the reason for the abstention in the official minutes of the council meeting?			
§ 123B.52, subd. 5	9. If a member of the board contracted with, worked for, or furnished supplies to the charter school, were the contracts or transactions included in the exceptions above (B1-8)?			

<b>Part III. Purchase of Merchandise</b>				
§§ 124D.10, subd. 8(i), & 15.054	A. Officers and employees of a charter school are prohibited from selling or buying property or materials owned by the charter school. <u>Employees</u> may make purchases from the charter school if the following criteria are met.			
	For all purchases:			
	1. Was the property or materials purchased by the employee not needed for charter school 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?			

This section does not apply to property or materials acquired or produced by charter schools for sale to the general public in the ordinary course of business.

<b>Part IV. Designation of Depository</b>				
§ 124D.10, subd. 8(i)	Pursuant to Minn. Stat. § 124D.10, subd. 8(i), charter schools are subject to and must comply with §§ 118A.01, 118A.02, 118A.03, 118A.04, 118A.05, and 118A.06.			

Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
§ 118A.01, subd. 4	“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 charter school, unless otherwise restricted. Minn. Stat. § 118A.01, subd. 4.			
§ 118A.02, subd. 1	A. In the case of a charter school:			
	1. Has each depository of public funds been designated by the charter school’s governing body, or by its treasurer or chief financial officer, if the charter school 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 V. Insuring or Securing Deposits</b>				
§ 118A.03, subs. 1 & 3	A. If a charter school 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.			
	B. Review the general principles of FDIC coverage in section 1 and complete the spreadsheet in this section to determine the amount of the charter school’s funds that are not insured and thus need to be either bonded or collateralized. Deposits held by credit unions are covered by separate deposit insurance rules promulgated by the National Credit Union Administration (NCUA).			
	C. Has the spreadsheet been completed? ( <u>See</u> page 9-15.)			

<b>Part VI. The Bond and Collateral</b>				
	A. If a bond was furnished by the depository to the charter school, answer the following question:			
§ 118A.03, subd. 1	1. Was the bond executed by a corporate surety company authorized to do business in the state?			
	B. If the depository assigned collateral to the charter school, answer the following questions:			

Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
§ 118A.03, subd. 2	1. Was the collateral one of the following:			
	a. U.S. government treasury bills, notes, or bonds;			
	b. issues of a U.S. government agency or instruments that are quoted by a recognized industry quotation service available to the government entity;			
	c. a general obligation of a state or local government, with taxing powers, rated "A" or better;			
	d. a revenue obligation of a state or local government, with taxing powers, rated "AA" or better;			
	e. unrated general obligation securities of a local government with taxing powers pledged as collateral against funds deposited by that same local government entity;			
	f. an irrevocable standby letter of credit issued by a Federal Home Loan Bank accompanied by written evidence that the Federal Home Loan Bank's public debt is rated "AA" or better by Moody's or Standard and Poor's; or			
	g. time deposits insured by a 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?			
§ 118A.03, subd. 7	3. Did the charter school 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 charter school on demand?			
§ 118A.03, subd. 3	C. Collateral pledged must equal at least ten percent more than the uninsured and unbonded amount on deposit. The depository may, at its discretion, furnish both a bond and collateral aggregating the required amount.			
	1. If a bond was used or standby letters of credit issued by Federal Home Loan Banks were pledged, was the amount of excess deposit less than or equal to 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?			

Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
[12 U.S.C. § 1823(e)]	D. Assignment [Federal Statutory Requirements]			
	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 VII. Public Investments</b>				
§ 118A.05, subd. 2	A. Were all repurchase agreements and reverse repurchase agreements <u>only</u> entered into with:			
	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. Are all investments held in safekeeping? If so:			
	1. Is the government entity's ownership of all securities in which the fund is invested evidenced by written acknowledgments identifying the securities by:			
	a. the names of the issuers?			
	b. maturity dates?			
	c. interest rates?			
	d. CUSIP numbers or other distinguishing marks?			
	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)?			
§ 118A.05, subd. 2	D. Were all reverse repurchase agreements only entered into:			
	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?			
§ 118A.05, subd. 3	E. Were all securities lending agreements (including custody agreements) entered into only with:			

Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
	1. a financial institution qualified as a depository having a principal executive office in Minnesota; or			
	2. a financial institution which is a member of the Federal Reserve System and whose combined capital and surplus equals or exceeds \$10,000,000, and which has a principal executive 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 VII.A. (above)?			
§ 118A.05, subd. 5	G. Were all guaranteed investment contracts or agreements only entered into with an issuer or guarantor:			
	1. that was a U.S. commercial bank, a domestic branch of a foreign bank, a U.S. insurance company, its Canadian subsidiary, or the domestic affiliates of any of the foregoing; <u>and</u>			
	2. whose credit quality for long-term and short-term unsecured debt was rated in one of the highest two categories by a nationally recognized rating agency?			
	H. Did all guaranteed investment contracts give the charter school withdrawal rights in the event the issuer's or guarantor's credit quality was downgraded below "A"?			
§ 118A.05, subd. 4	I. Did the charter school 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.05?			
	J. Mutual Funds			
	Did the charter school 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;			
	d. that was rated in one of the two 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>			

Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
	c. is rated in one of the two highest rating categories for money market funds by at least one nationally recognized statistical rating organization?			
	K. Did the charter school 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-.05?			
§ 118A.04	L. Were all other funds invested in instruments which met at least one of the following criteria:			
	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 with taxing powers 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 service;			
§ 118A.04, subd. 4	5. 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, <u>and</u>			
	b. matures in 270 days or less;			
§ 118A.04, subd. 5	6. In time deposits fully insured by the Federal Deposit Insurance Corporation;			
	7. In bankers' acceptances issued by United States banks; or			
§ 118A.04, subd. 7	8. 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?			
§ 118A.04, subd. 8	Note: A debt service fund can purchase any issue payable from the fund.			



Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
§ 118A.04, subd. 2	M. Mortgage-Backed Securities			
	Charter schools 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.			
§ 118A.04, subds. 2 & 6	Mortgage-backed securities purchased shall not be “high risk.” Minn. Stat. § 118A.04, subd. 6, states “high risk mortgage-backed securities” are:			
	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, not “high risk?”			

**Part VIII. Broker Acknowledgment Certification**

§ 118A.04, subd. 9	A. Annually, prior to completing an initial investment transaction with each broker, did the charter school 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 charter school’s account in accordance with the restrictions?			
	C. Did the charter school retain documentation of compliance with A and B above?			

**Part IX. Claims and Disbursements - General Provisions**

§ 124D.10, subd. 8(i)	- Pursuant to Minn. Stat. § 124D.10, subd. 8(i), charter schools are subject to and must comply with Minn. Stat. §§ 471.38, 471.391, 471.392, and 471.425.			
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Minn. Stat. Section	<b>CHARTER SCHOOLS</b>	Yes	No	Workpaper Reference
§ 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) in items?			
§ 471.38, subd. 1	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 [charter school], 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			
	<p>- Standard payment period is:</p> <ul style="list-style-type: none"> <li>- 35 days from receipt for governing boards that meet at least once a month;</li> <li>- 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</li> <li>- 45 days from receipt for joint powers entities.</li> </ul>			
§ 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 charter school 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 charter school calculate and pay interest as required by law?			

Minn. Stat. Section	CHARTER SCHOOLS	Yes	No	Workpaper Reference
§ 471.425, subd. 4a	3. Did each contract between the charter school and a prime contractor require the prime contractor to pay subcontractors within ten days of receipt of payment from the charter school or pay interest at the rate of 1½ percent per month or any part of a month?			
	Note: The interest penalties in these questions do not apply to good faith disputes.			

§§ 124D.10, subd. 8(i), & 471.38, subds. 3 & 3a	Part X. Claims and Disbursements - Electronic Funds Transfer			
	A. Charter schools may make electronic funds transfers under certain conditions.			
	1. A charter school may make electronic funds transfers for:			
	a. a claim for payment from an imprest payroll bank account or investment of excess money;			
	b. payment of tax or aid anticipation certificates;			
	c. payment of contributions to a pension or retirement fund;			
	d. vendor payments; and			
	e. payment of bond principal, bond interest, and a fiscal agent service charge from the debt redemption fund.			
	B. Did the charter school use electronic funds transfers only for the above enumerated transactions?			
	C. Did the charter school enact a plan containing the following policy controls requiring:			
	1. annual delegation of authority to make electronic funds transfers to a designated business administrator?			
	2. the disbursing bank to keep a certified copy of delegation of authority?			
	3. identification of the initiator of each electronic transfer?			
	4. the initiator to document the request and obtain approval for each transfer from the designated business administrator, prior to the transaction?			
	5. written confirmation of each transaction within one business day?			
	6. a list of transactions to be submitted to the charter school's board at the next regular meeting after the transaction?			

Minn. Stat. Section	CHARTER SCHOOLS	Yes	No	Workpaper Reference
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<b>Part XI. Related Party Lease Costs</b>				
§ 124D.10, subd. 26	For purposes of this Part:			
	- A “related party” is an affiliate or close relative of the other party in question, an affiliate of a close relative, or a close relative of an affiliate.			
	- “Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.			
	- “Close relative” means an individual whose relationship by blood, marriage, or adoption to another individual is no more remote than first cousin.			
	- “Person” means an individual or entity of any kind.			
	- “Control” includes the terms “controlling,” “controlled by,” and “under common control with” and means the possession, direct or indirect, of the power to direct or cause the direction of the management, operations, or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.			
§ 124D.10, subd. 23a	A. If the charter school entered into a lease of real property with a related party on or after July 1, 2001:			
	1. was the lessor a nonprofit corporation under chapter 317A or a cooperative under chapter 308A; <u>and</u>			
	2. was the lease cost reasonable under Minn. Stat. § 124D.11, subd. 4(1)?			
	B. If the charter school entered into as lessee a lease with a related party on or after July 1, 2001, does the lease contain the statement, “This lease is subject to Minnesota Statutes, section 124D.10, subdivision 23a?”			

<b>Part XII. 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 charter schools.
Conclusion:



**LOCAL GOVERNMENT  
MISCELLANEOUS PROVISIONS**

# **LEGAL COMPLIANCE MANUAL**

## **LOCAL GOVERNMENT MISCELLANEOUS PROVISIONS**

### Introduction

This checklist, “Local Government Miscellaneous Provisions” must be completed by auditors in the course of each audit of a local government. It contains provisions that do not fit squarely into checklists 1 through 5.

Part I applies to counties only. Part II applies to local governments generally; the specific entities are indicated for each question. Part III applies to city subdivision regulations only.

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

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



Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
	d. did the officer submit an itemized claim for the actual and necessary expenses incurred and paid related to the approved travel at a meeting of the county board in the month after approved travel outside the county; and			
	e. did the county board act upon it as in the case of other claims and was a warrant issued to the officer or employee for the amount allowed; and			
	f. did the officer or employee use the proceeds of the warrant to repay the amount advanced from the fund and if the amount approved by the county board was insufficient to repay the advance, was the officer or employee held responsible for the difference?			
§ 375.12	D. Publication of County Board Minutes			
	Within 30 days of each meeting, did the county board have the official proceedings of its sessions or a summary published in a qualified newspaper of general circulation in the county?  Did the information published include all claims exceeding \$300 and a statement showing the total number of claims that did not exceed \$300 and their total dollar amount?			
§ 375.169	E. Publication of Summary Budget Statement			
	Did the county annually, upon adoption of the county budget publish a summary budget statement in a form prescribed by the state auditor in the county's official newspaper or, if there is none, a qualified newspaper of general circulation in the county?			
§ 375.17	F. Financial Statements			
	1. Did the county board annually, not later than the first Tuesday after the first Monday in March, make a full and accurate statement of the receipts and expenditures of the preceding year under the form and style prescribed by and on file with the State Auditor?			
	2. Did the county annually publish the statement or a summary of the statement in a form prescribed by the State Auditor, for one issue in a duly qualified legal newspaper in the county?			
	3. If the county board elected to publish the full statement, did it publish either:			
	a. an itemized account of amounts paid out, to whom and for what purpose; <u>or</u>			
	b. if the published proceedings of the county board contained an itemized account of amounts paid out, to whom, and for what purpose, a schedule of major disbursements containing all disbursements aggregating \$5,000 or more to any person, amounts paid out, to whom, and for what purpose?			

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

Minn. Stat. Section	<b>MISCELLANEOUS PROVISIONS</b>	Yes	No	Workpaper Reference
§ 273.08 & 273.18	J. Valuation of Property - Viewing Parcels			
	1. Did the assessor actually view and determine the market value of each tract or lot of real property listed for taxation at maximum intervals of four years [five years for assessments on or after 1/2/2004] and enter the value opposite each description; or			
	2. In the case of property exempt by law from taxation, did the county assessor view, value, and assess the property in every sixth year and designate the purpose for which the property is used?			
§ 103E.651	K. Drainage System Accounts			
	1. Did the Auditor keep a separate account for each drainage system; and			
	2. was the account credited with all money from the sale of bonds, and bond premiums and all money received from interest, liens, assessments, and other sources for the drainage system; and			
	3. was the account debited with every item of expense made for the drainage system?			
§ 103E.655	L. Drainage System Costs			
	1. If money was not available in the drainage system account on which a warrant is drawn:			
	a. did the county treasurer endorse the warrant “not paid for want of funds” and was interest at the rate of six percent per year paid; <u>or</u>			
	b. did the board, by unanimous resolution, transfer funds from another drainage system account or from the county general revenue fund to the drainage system account; <u>and</u>			
	c. was the money plus interest reimbursed from the proceeds of the drainage system that received the transfer, and was the interest computed for the time the money was actually needed at the same rate charged on drainage liens and assessments?			
§ 282.05, .08	M. Apportionment of Proceeds from Forfeited Land			
	Were the net proceeds from the sale or rental of forfeited land, or from the sale of products from the forfeited land apportioned by the county auditor to the taxing districts interested in the land in accordance with Minn. Stat. § 282.08?			
§ 276.111	N. Distributions and Final Year-End Settlement			
	1. On or before January 5, did the county treasurer make full settlement of all tax receipts collected to December 31 of the prior year?			
	2. On or before January 25, did the county treasurer pay to each of the taxing districts the balance of the tax amounts collected on behalf of each taxing district?			

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
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Part II. Local Governments Generally				
§ 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.01, subd. 1d, 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 local government's records show unclaimed or uncashed checks or other intangible property held for more than three years, was the property reported and paid or delivered to the state Commissioner of Commerce pursuant to Minn. Stat. §§ 345.41, .43?			
§ 465.03	C. Acceptance of Gifts (Applies to any city, county, school district or town.)			
	1. Was every acceptance of a grant or devise of real or personal property on terms prescribed by the donor made by resolution of the governing board adopted by a two-thirds majority of its members and expressing such terms in full?			
§ 375.19	2. If not in the case of a <u>county</u> only, did the county board accept real or personal property from a person whose care, support, treatment, or maintenance, in whole or part, is or may be chargeable to or furnished or provided by the county?			
§ 169.022	D. Traffic Violation Administrative Penalties/Safety Classes (Applies to all local governments.)			
	1. If the local government 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?			
§ 375.19	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	E. Mileage Reimbursement/Automobile allowance (Applies to any county, home rule charter or statutory city, town, or school district.) [Note: The City of St. Paul 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	F. Compensation Limit (Applies 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. 9b? [This amount is \$139,817 for 2007; \$144,711 for 2008; and \$150,065 for 2009.]; <u>or</u>			
	2. Has the entity obtained an increase in the limit from the Commissioner of Employee Relations?			
§ 270C.66	G. Withholding Affidavit/Certificate (Applies to all local governments.)			
	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 IC-134 or a Contractor's Withholding Affidavit Confirmation)?			
§§ 15.17 & 138.17	H. Destruction of Records (Applies to all local governments.)			
	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?"			
	I. Public Purpose (Applies to all local governments.)			
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	J. Out-of-State Travel Policy (Applies to each city, county, school district, regional agency, or other political subdivision, <u>except</u> a town.)			
	1. Has the unit of government developed 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;			



# **TAX INCREMENT FINANCING**

# LEGAL COMPLIANCE MANUAL

## TAX INCREMENT FINANCING

### Introduction

Tax increment financing (TIF) is a financing tool to promote economic development, redevelopment, and housing in areas of the state 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 certifies a TIF district, a geographic area where new development, redevelopment, or housing would not occur “but-for” the use of tax increment.

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, i.e., 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 public assistance provided to the site. Once the costs are paid and the TIF district is decertified, the property taxes are distributed to the county, city, and school district for financing local services.



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

§ 469.177, subd. 5	<b>For districts with Certification Request Dates (CRDs) after July 31, 1979:</b> Has the authority segregated all tax increment received from this district in a special account (or accounts) on its official books and records or is the segregated tax increment held by a trustee (or trustees) for the benefit of bondholders as established by resolution?			
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**Part II. Decertification Process**

§ 469.177, subd. 12	A. Did the authority decertify this TIF district upon the happening of the earlier of the following:			
§ 469.176, subd. 1	1. the duration of the TIF district, as provided in the TIF plan, has terminated;			
	2. the payment of bonds and interest (including escrowed revenues) from TIF district revenue has been discharged, subject to statutorily defined durational limitations of the district;			
§ 469.176, subd. 1b-1g	3. the statutory durational limit of tax increment to be paid to the authority for the TIF district has terminated; or			
§ 469.1763, subd. 4	4. beginning in the sixth year following certification of a post – 1990 TIF district, sufficient tax increment revenues are available to pay, defease, or set aside for outstanding bonds and binding contracts entered into within five years of the certification of the district?			
	B. Did the authority file its confirmation of decertified TIF district form with its county auditor?			
	C. Did the TIF authority not receive any tax increment revenues from the TIF district following decertification by the county auditor?			
§ 469.176, subd. 1c	D. <b>Pre-1979 TIF Districts</b>			
	For TIF districts with certification request dates (CDRs) prior to August 1, 1979, has no tax increment been paid to an authority after August 1, 2009?			

**Part III. Interfund Loan Resolutions/Tax Increment Revenues**

§ 469.178, subd. 7	A. Did the authority have an interfund loan resolution in place for advances from the general fund or any other fund to finance TIF eligible expenditures? (effective 2001)			
§ 469.174, subd. 25	B. Did the authority include interest or other investment earnings on or from tax increments as tax increment revenues?			
§ 469.174, subd. 25	C. Did the authority include market value homestead credit paid to the authority under § 273.1384 as tax increment revenues?			

Minn. Stat. Section	<b>TAX INCREMENT FINANCING</b>	<b>Yes</b>	<b>No</b>	Workpaper Reference
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<b>Part IV. Four-Year Knock Down</b>				
§ 469.176, subd. 6	<p>If, after four years from the date of certification of the original net tax capacity no demolition, rehabilitation, or renovation of property or other site preparation has been commenced, was the original net tax capacity of othat parcel excluded from the original net tax capacity of othe TIF district?</p> <p>(Evidence of activity must be reported to the county auditor by February 1 of the fifth year.)</p>			