

**OFFICE OF THE
STATE AUDITOR**

**Minnesota Legal Compliance
Audit Guide for
School Districts**

ORDER

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

Page 1-1	Depositories of Public Funds and Public Investments,
Page 2-1	Conflicts of Interest,
Page 3-1	Public Indebtedness,
Page 4-1	Contracting - Bid Laws,
Page 5-1	Claims and Disbursements,
Page 6-1	Examples of Independent Auditor's Reports,
Page 7-1	Uniform Financial Accounting and Reporting Standards (UFARS) for Minnesota School Districts and Charter Schools,
Page 8-1	School District Miscellaneous Provisions

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

/s/

Julie Blaha
State Auditor

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INTRODUCTION

This Legal Compliance Audit Guide was prepared by the Office of the State Auditor pursuant to Minn. Stat. § 6.65, in consultation with representatives from the Attorney General's Office, towns, cities, counties, school districts, and private sector public accountants. This Legal Compliance Audit Guide establishes minimum compliance guidelines for verification by auditors engaged in the process of auditing school districts 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 audit guide is still unsure as to whether there has been legal compliance, he or she should check with legal counsel before rendering the opinion on compliance contained at the end of each section.

AUDITOR'S REPORTS ON COMPLIANCE

Chapter 6 contains 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 school districts.

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 or minutes. . . The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute.

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

The above provision requires that the individual votes of each member of the 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.

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.

DESTRUCTION OF RECORDS

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

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

Unless a 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 school district must be kept forever, unless the school district (1) adopts the General Records Retention Schedule for School Districts, in which case, the school district must maintain these records for the specified period, (2) adopts its own properly approved records retention schedule, or (3) receives authority to dispose of the records from the records disposition panel.

A school district that wishes to adopt the appropriate General Records Retention Schedule can find information on the [State Archives website](#).

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

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

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

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

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

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

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

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

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

**SCHOOL DISTRICT
DEPOSITORIES OF PUBLIC FUNDS
AND
PUBLIC INVESTMENTS**

LEGAL COMPLIANCE AUDIT GUIDE

DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS

Introduction

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

“Government entity” for the purpose of this section includes school districts:

Minn. Stat. § 118A.01, subd. 2. This section does not apply to entities whose investment authority is specified under Minn. Stat. ch. 11A (Investment of State and Pension Assets), or 356A (Public Pension Fiduciary Responsibility). *Id.*

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

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

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

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
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Part I. Designation of Depository				
§ 118A.02, subd. 1	A. In the case of a school district:			
	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?			

Part II. Insuring or Securing Deposits				
§ 118A.03	A. If a school district 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 school district's funds that is not insured and thus need to be either bonded or collateralized. Deposits held by credit unions are covered by separate deposit insurance rules promulgated by the National Credit Union Administration (NCUA).			
	<p>General Principles of FDIC coverage:</p> <p>1. Deposits are insured only if the depository is a member of FDIC.</p> <p>2. Deposits in one depository are insured separately from deposits in another depository which is not a branch of the first one. However, a depository and all of the branches associated with it are treated as a single combined depository, and the funds deposited in the branches are aggregated for purposes of insurance coverage.</p>			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	<p>3. The aggregate of a government entity's time/savings accounts, i.e., savings accounts, NOW accounts, and time deposits (CDs), with the same depository are insured up to a total of \$250,000. The aggregate of a government entity's demand accounts, i.e., non-interest and interest-bearing checking accounts, are insured up to a total of \$250,000 and are insured separately from the government entity's time/savings deposits. This separate \$250,000 coverage for demand and time/savings accounts only applies if the depository is in the same state as the government entity.</p> <p>4. A public authority, public corporation, public commission, or special district receives separate insurance coverage from its parent government entity only if its creation is expressly authorized by state statute, government functions have been delegated to it by law, and funds have been allocated for its exclusive use and control. Subordinate or non-autonomous divisions, agencies, or boards do not receive separate insurance coverage.</p> <p>5. Funds held for a special purpose and required by law to be paid to bondholders or beneficiaries such as members of pension funds or relief associations are covered up to \$250,000 per bondholder or beneficiary whether the beneficial interest is vested or not. The fiduciary nature must be indicated on the account name in the bank's records.</p> <p>6. If more than one person is legal or official custodian of funds for a government entity, each custodian having plenary authority (including control) over the funds is separately insured up to \$250,000. Also, if the same person is the custodian of funds for two separate government entities, the funds for the two government entities are separately insured.</p> <p>7. Moneys held by a government entity in trust are insured separately from other government entity funds only <u>if</u> the trust is linked to a written trust agreement, court order or statute, the owner does not retain an interest in the use of the assets, and the interests of beneficiaries are ascertainable and not contingent.</p>			
	C. Was collateral coverage sufficient? (Answer after completing the spreadsheet on page 1-11.)			

Part III. The Bond and Collateral				
§ 118A.03, subd. 1	A. If a bond was furnished by the depository to the school district, 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 school district, answer the following questions:			
	1. Was the collateral one of the following:			
	a. U.S. government treasury bills, notes, or bonds;			
	b. issues of a U.S. government agency or instrumentality that are quoted by a recognized industry quotation service available to the government entity;			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	c. a general obligation of a state or local government, with taxing powers, rated "A" or better;			
	d. a revenue obligation of a state or local government, with taxing powers, rated "AA" or better;			
	e. unrated general obligation securities of a local government, with taxing powers, pledged as collateral against funds deposited by that same local government entity;			
	f. an irrevocable standby letter of credit issued by a Federal Home Loan Bank accompanied by written evidence that the Federal Home Loan Bank's public debt is rated "AA" or better by Moody's or Standard and Poor's; or			
	g. time deposits insured by any federal agency?			
§ 118A.03, subd. 7	2. Was the collateral placed for safekeeping:			
	a. In a restricted account at the Federal Reserve Bank; or			
	b. in an account at a trust department of a commercial bank or other financial institution not owned or controlled by the depository?			
	3. Did the government entity approve of the selection of the safekeeping entity?			
§ 118A.03, subd. 4	4. Was the collateral assignment in writing?			
	5. Did the assignment provide that, upon default, the depository shall release the collateral pledged to the government entity on demand, free of exchange or other charges?			
§ 118A.03, subd. 3	C. Collateral pledged must equal at least ten percent more than the uninsured and unbonded amount on deposit at the close of the banking day. If irrevocable standby letters of credit from Federal Home Loan Banks are used, the amount must be equal to the amount of the excess deposit at the close of the banking day. The depository may, at its discretion, furnish both a bond and collateral aggregating the required amount. For the purpose of this section, "banking day" has the meaning given in Federal Reserve Board Regulation CC, 12 C.F.R. § 229.2(f), and incorporates a financial institution's cutoff hour established under Minn. Stat. § 336.4-108.			
	1. If a bond was obtained or standby letters of credit from Federal Home Loan Banks were pledged, was the amount of excess deposit at the close of the banking day (as defined above) equal to or less than the amount of the bond or standby letters of credit?			
	2. If other collateral was pledged, was the amount of collateral at least ten percent more than the uninsured amount on deposit at the close of the banking day?			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	D. Assignment [Federal Statutory Requirements]			
[12 U.S.C. § 1823(e)]	1. Was the written assignment approved by the depository's board of directors or loan committee?			
	2. Was the assignment an official record of the depository?			
§ 118A.03	E. If the school district used a sweep account, did the timing of the sweep take place so that all amounts on deposit at the end of the banking day were protected by deposit insurance, bond, or pledged collateral?			

Part IV. Public Investments				
	A. Were all repurchase agreements and reverse repurchase agreements <u>only</u> entered into with:			
§ 118A.05, subd. 2	1. a financial institution qualified as a depository of public funds;			
	2. any other financial institution which is a member of the Federal Reserve System <u>and</u> whose combined capital and surplus equals or exceeds \$10,000,000;			
	3. a primary reporting dealer in United States government securities to the Federal Reserve Bank of New York; or			
	4. a securities broker-dealer licensed pursuant to chapter 80A, or an affiliate of it, regulated by the Securities and Exchange Commission and maintaining a combined capital and surplus of \$40,000,000 or more, exclusive of subordinated debt?			
§ 118A.06	B. If the school district safekeeps investments with a third party:			
	1. Is the school district's ownership of all securities in which the fund is invested evidenced by written acknowledgments identifying the securities by the names of the issuers, maturity dates, interest rates, CUSIP numbers, or other distinguishing marks?			
	2. Were investments, contracts, and agreements held in safekeeping with:			
	a. a Federal Reserve Bank;			
	b. any bank authorized under the laws of the United States or any state to exercise corporate trust powers, including, but not limited to, the bank from which the investment is purchased;			
	c. a primary reporting dealer in United States government securities to the Federal Reserve Bank of New York; <u>or</u>			
	d. a securities broker-dealer, or an affiliate of it, that			
	(1) Is registered as a broker-dealer under Chapter 80A or is exempt from the registration requirements;			
	(2) is regulated by the Securities and Exchange Commission; <u>and</u>			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	(3) maintains insurance through the Security Investor Protection Corporation (SIPC) or excess insurance coverage in an amount equal to or greater than the value of the securities held?			
	C. Were the securities sold or pledged under the repurchase agreement or reverse repurchase agreement permissible direct investments under Minn. Stat. § 118A.04 (see L and M below)?			
	D. Were all reverse repurchase agreements only entered into:			
§ 118A.05, subd. 2	1. for a period of 90 days or less; and			
	2. only to meet short-term cash needs and not to generate cash for investments?			
	E. Were all securities lending agreements (including custody agreements) entered into only with:			
§ 118A.05 subd. 3	1. a financial institution qualified as a depository having an office in Minnesota; or			
	2. a financial institution which is a member of the Federal Reserve System <u>and</u> whose combined capital and surplus equals or exceeds \$10,000,000, <u>and</u> which has an office in Minnesota?			
	F. Did the custodian or entity operating the securities lending program only enter into securities lending transactions with those entities identified in Part IV.A. (above)?			
§ 118A.05, subd. 5	G. Guaranteed investment contracts or agreements			
	1. Were all guaranteed investment contracts or agreements only entered into with an issuer or guarantor that was a U.S. commercial bank, a domestic branch of a foreign bank, a U.S. insurance company, or its Canadian subsidiary, or the domestic affiliates of any of the foregoing?			
	2. Was the issuer's or guarantor's long-term and short-term unsecured debt:			
	a. rated in one of the highest two categories by a nationally recognized rating agency, <u>or</u>			
	b. was the term of the guaranteed investment contract 18 months or less, <u>and</u> was the credit quality of the issuer's short-term unsecured debt rated in the highest category by a nationally recognized rating agency (regardless of the credit quality of the issuer's or guarantor's long-term unsecured debt)?			
	H. Did all guaranteed investment contracts give the public entity withdrawal rights in the event the issuer's or guarantor's credit quality was downgraded below "A"?			
§ 118A.05, subd. 4	I. Did the school district only invest in shares of a Minnesota joint powers investment trust whose investments were restricted to securities described in Minn. Stat. §§ 118A.04 and 118A.07, subd. 7?			
§ 118A.05, subd. 4	J. Mutual Funds - Did the school district only invest in shares of an investment company that met the criteria in either 1 or 2 below:			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	1. a. registered under the Federal Investment Company Act of 1940;			
	b. whose shares were registered under the Federal Securities Act of 1933;			
	c. whose fund received the highest credit rating;			
	d. that was rated in one of the highest risk rating categories by at least one nationally recognized statistical rating organization; <u>and</u>			
	e. that only invests in financial instruments with a final maturity no longer than 13 months?			
	2. a. registered under the Federal Investment Company Act of 1940;			
	b. which holds itself out as a money market fund meeting the conditions of SEC rule 2a-7; <u>and</u>			
	c. is rated one of the two highest rating categories for money market funds by at least one nationally recognized statistical rating organization?			
§ 118A.05, subd. 4	K. Did the school district only invest in units of a short-term investment fund:			
	1. established and administered pursuant to regulation 9 of the Comptroller of the Currency; and			
	2. in which investments are restricted to securities described in Minn. Stat. § 118A.04?			
	L. Were all other funds invested in instruments which met at least one of the following criteria:			
§ 118A.04	1. In governmental bonds, notes, bills, mortgages, and other securities, which were direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress, excluding mortgage-backed securities defined as “high risk” (see Section M - Mortgage-Backed Securities);			
	2. In a general obligation of a state or local government with taxing powers which was rated “A” or better by a national bond rating service;			
	3. In a revenue obligation of a state or local government which was rated “AA” or better by a national bond rating service;			
	4. In a general obligation of the Minnesota Housing Finance Agency which was a moral obligation of the State of Minnesota and is rated “A” or better by a national bond rating agency;			
	5. In an obligation of a school district with an original maturity not exceeding 13 months which is (i) rated in the highest category by a national bond rating service or (ii) enrolled in the credit enhancement program pursuant to Minn. Stat. § 126C.55; [Note: This authority is in addition to and does not limit the authority provided by items 2 and 3, above.]			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
	6. In commercial paper issued by a United States corporation or its Canadian subsidiary and that:			
	a. was rated in the highest quality category by at least two nationally recognized rating agencies, and			
	b. matures in 270 days or less;			
§ 118A.04, subd. 5	7. In time deposits fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration;			
§ 118A.04, subd. 5	8. In bankers' acceptances issued by United States banks;			
§ 118A.04, subd. 7	9. In its own temporary obligations issued under Minn. Stat. §§ 429.091, subd. 7 (special assessments), 469.178, subd. 5 (tax increment bonds), or 475.61, subd. 6, <u>or</u>			
§ 136F.91	10. (For counties, cities, towns and other municipal corporations, political subdivisions and political bodies) Bonds issued by Minnesota State Colleges and Universities under Minn. Stat. §§ 136F.90 to 136F.98?			
§ 118A.04, subd. 8	Note: A debt service fund can purchase any issue payable from the fund.			
	M. Mortgage-Backed Securities			
§ 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.			

Minn. Stat. Section	DEPOSITORIES OF PUBLIC FUNDS AND PUBLIC INVESTMENTS	Yes	No	Workpaper Reference
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	3. Were all mortgage-backed securities purchased by the school district after August 1, 1993, <u>not</u> "high risk?"			
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Part V. Broker Acknowledgement Certification

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

Part VI. Audit Conclusion

<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 depositories of public funds and investments.</p> <p>Conclusion:</p>

SPREADSHEET

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

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

**SCHOOL DISTRICT
CONFLICTS OF INTEREST**

LEGAL COMPLIANCE AUDIT GUIDE

CONFLICTS OF INTEREST

Introduction

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

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

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

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

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

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

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

Minn. Stat. Section	CONFLICTS OF INTEREST			Yes	No	Workpaper Reference
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 school board may contract for goods or services with an interested officer only by unanimous vote. <u>See A, infra.</u> In addition to the unanimous vote, one of the statutory exceptions must apply. <u>See B, infra.</u>					
§ 471.88, subd. 1	A. Contract for Goods or Services/Unanimous Approval					
	1. If there were any sales, leases, or contracts between the school board and an interested officer, was each contract a contract for goods or services? <u>and</u>					
	2. If there were any sales, leases, or contracts between the school board and an interested officer, did the school board approve the transaction by unanimous vote?					
	Note: In general, all <u>members</u> present must vote in order to produce a unanimous vote; except that the interested officer may abstain (as a practical matter).					
	B. Statutory Exceptions					
§ 471.88, subd. 2	1. Designation of Bank or Savings Association If the transaction involved the designation of a bank or savings association as an authorized depository for public funds and as a source of borrowing:					
	a. Did the interested officer disclose to the school board that he or she was a director or employee of the bank or savings association?					
	b. Was such disclosure entered into the minutes of the school board's meeting prior to the first designation of the bank or savings association as a depository or at the time of the interested officer's election, whichever was later?					
§ 471.88, subd. 3	2. Designation of Official Newspaper					
	If a transaction involved the designation of an official newspaper or publication of official matters therein:					
	a. Was the newspaper in which the officer had an interest the only newspaper complying with statutory or charter requirements relating to designation or publication?					

Minn. Stat. Section	CONFLICTS OF INTEREST			Yes	No	Workpaper Reference
§ 471.88, subd. 4	3. Stockholder of Cooperative Association If the transaction involved a contract with a cooperative association:					
	a. Was the officer a shareholder or stockholder and not an officer or manager of the cooperative association?					
§ 471.88, subd. 5	4. Contracts That Do Not Need to Be Bid					
	If an interested officer entered into a contract for goods and services with the school board:					
	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 school board, prior to performance of the contract, authorize the contract by adopting a resolution setting forth the essential facts and determining that the contract price was as low or lower than the price at which the commodity or service could be obtained elsewhere?					
§ 471.89, subd. 3	c. Prior to payment of the contract, did the interested officer file with the clerk of the school board 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 school board adopt such a resolution prior to payment of the claims in which the facts of the emergency are also stated?					

Minn. Stat. Section	CONFLICTS OF INTEREST			Yes	No	Workpaper Reference
§ 123B.195	5. 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 \$20,000 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	6. Contract for Construction Materials or Services					
	If an interested officer contracted with the school district 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 school board for consideration, did the officer refrain from voting?					
§ 471.88, subd. 13	7. 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. 21	8. 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?					

Minn. Stat. Section	CONFLICTS OF INTEREST	Yes	No	Workpaper Reference
§§ 123B.52, subd. 5, 471.88	9. Conflicts of Interest: All Other Contracts or Transactions If there were any contracts or transactions between an interested officer and the school board, were the contracts or transactions included in the exceptions above (B1-10)?			

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

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

**SCHOOL DISTRICT
PUBLIC INDEBTEDNESS**

LEGAL COMPLIANCE AUDIT GUIDE

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	
LONG-TERM BORROWING:	<u>Issued</u>	<u>Outstanding</u>
General Obligation Bonds (Minn. Stat. ch. 475)		
Revenue Bonds (Minn. Stat. ch. 475)		
General Obligation Revenue Bonds (Minn. Stat. ch. 475)		

	During the Year	
SHORT-TERM BORROWING:	<u>Issued</u>	<u>Outstanding</u>
Aid Anticipation Certificates (Minn. Stat. §§ 126C.52, 126C.53)		
Tax Anticipation Certificates (Minn. Stat. §§ 126C.52, 126C.53)		
Orders Not Paid for Want of Funds (Minn. Stat. § 123B.12)		
Emergency Certificates of Indebtedness (Minn. Stat. § 475.754)		
Certificates of Indebtedness (Minn. Stat. § 123B.61)		
Reverse Repurchase Agreements/Securities Lending Agreements (Minn. Stat. § 118A.05)		
Lease Purchase Agreements (Minn. Stat. § 465.71)		

Minn. Stat. Section	PUBLIC INDEBTEDNESS	Yes	No	Workpaper Reference
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Part I. Answer the following questions with respect to all types of indebtedness that were issued during this fiscal year:

§ 475.51, et. seq.	A. Was school 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 estimated market value?			
	2. Was a listing of the indebtedness to be funded or refunded prepared by the treasurer and recording officer and filed in the office of the recording officer?			
§ 475.58 subd. 2	3. Was the resolution, stating the amount of bonds to be issued and referring to the listing of indebtedness to be funded or refunded, published in the legal newspaper once each week for two successive weeks?			
	Note: Refunding obligations may be authorized by Minn. Stat. § 475.67 for which the notice required here is not applicable.			
	C. Considering the issuance of the obligations, will the net debt (as defined in Minn. Stat. § 475.51, subd. 4) of the school district not exceed the net debt limit as is applicable below:			
§ 475.53, subd. 4	For all school districts does the net debt not exceed 15 percent of the estimated 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.)			
§ 475.58, subd. 1	D. Was the request to issue the obligations submitted for approval at an election?			
§ 475.58, subd. 4	1. If so, were the proceeds only spent:			
	a. (1) for the purposes stated in the ballot language; or (2) to pay, redeem, or defease obligations and interest, penalties, premiums, and costs of issuance of the obligations; and			
	b. were none of the proceeds spent for a different purpose or for an expansion of the original purpose without approval by a majority of the electors voting on the question of changing or expanding the purpose of the obligations?			
§ 475.58, subd. 1	2. If not, was this issuance exempt from approval by the electors for one of the following reasons:			
	It represented an obligation characterized as:			
	a. any unpaid judgment against the school district;			
	b. refunding obligations;			

Minn. Stat. Section	PUBLIC INDEBTEDNESS	Yes	No	Workpaper Reference
	c. an improvement or improvement program, the obligation for which is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program or from tax increments, including obligations which are the general obligations of the school district, if the school district 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 school district without an election;			
	g. an obligation to fund pension or retirement fund liabilities of a school district pursuant to Minn. Stat. § 475.52, subd. 6;			
	h. issued under Minn. Stat. §§ 469.1813 to 469.1815 (property tax abatement authority bonds), if the bonds are not used for a purpose prohibited under § 469.176, subd. 4g, para. (b);			
§ 475.58, subd. 3a	i. 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	j. issued for street reconstruction and bituminous overlays, and were the conditions of Minn. Stat. § 471.58, subd. 3b met?			
§ 475.58, subd. 1a	E. If the issuance of obligations for the same purpose and in the same amount has previously been proposed to the electors and voted down, did this election take place at least 180 days after the first election?			
	F. If this is the third request for the same purpose and in the same amount, did this election take place at least one year after the second election?			
§ 475.60, subds. 2 & 3	G. Was the sale of these obligations in accordance with the public notice and public sale requirements of Minnesota statutes?			
§ 475.60, subd. 2	1. If no, was the sale exempt from public sale due to any of the following reasons:			
	a. obligations issued under the provisions of a home rule charter, or under a law specifically authorizing a different method of sale or authorizing them to be issued in such a manner as the school board may determine;			
	b. obligations sold by the school district in an amount not exceeding the total sum of \$1,200,000 in any 12-month period;			

Minn. Stat. Section	PUBLIC INDEBTEDNESS	Yes	No	Workpaper Reference
	c. 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;			
	d. 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;			
	e. obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the school board, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation;			
	f. obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement;			
	g. obligations sold under a bond reinvestment program; or			
	h. obligations which the school board determines shall be sold by private negotiation if the school district has retained an independent municipal adviser?			
§ 475.55, subd. 1	H. Were all obligations signed manually by one officer of the school district or by a designated authenticating agent?			
§ 475.65	I. Did the treasurer account for the receipt and disbursement of the proceeds of the issue, for the use named in the resolution, in a separate fund or account in the official financial records of the school district?			
§ 475.61, subd. 2, & § 475.62	J. Was the appropriate information reported to the county auditor for all new issues of indebtedness so that the county register could be updated? (Information to include: the purpose and date of the issue; the number, denomination, interest rate, and maturity date of each bond; place and time of payment of principal and interest; and the amount of the tax levied for the payment thereof.)			
§ 471.69	K. Limitation on Outstanding Warrants and Orders			
	1. Did the 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.			

Minn. Stat. Section	PUBLIC INDEBTEDNESS			Yes	No	Workpaper Reference
Part II. Answer only the questions below that relate to the specific types of debt that were issued during the current fiscal year:						
§ 475.61, subd. 1	A. GENERAL OBLIGATION BONDS:					
	1. Did the school district, 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 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?					
§ 126C.53	B. 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? [Note: For intermediate school districts, this computation may include membership fees/tuition from member school districts.]					
§§ 126C.52, 126C.53, & 126C.54	C. 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?					
	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?					

Minn. Stat. Section	PUBLIC INDEBTEDNESS	Yes	No	Workpaper Reference
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§ 123B.61	D. CERTIFICATES OF INDEBTEDNESS OR CAPITAL NOTES: (School district - purchase of certain equipment)			
	1. Were the notes or certificates issued to:			
	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, whether bundled with machinery or equipment or unbundled, 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 not more than 20 years?			
	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 not have an outstanding capital loan under Minn. Stat. § 126C.69?			

Part III. Answer the following questions for each type of issue that was outstanding at some point during the fiscal year:

§ 475.61, subd. 1	A. 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?			
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Minn. Stat. Section	PUBLIC INDEBTEDNESS	Yes	No	Workpaper Reference
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	1. If not, did the board adopt a resolution levying another amount of such taxes?			
§ 475.61, subd. 3	B. 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	C. 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	D. Has the principal accounting officer of the school district reported, on or before February 1 st 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 st of the preceding year?			

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

**SCHOOL DISTRICT
CONTRACTING - BID LAWS**

LEGAL COMPLIANCE AUDIT GUIDE

CONTRACTING - BID LAWS

Introduction

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

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

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

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

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

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

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

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
Part I. Uniform Municipal and Contracting Law - Applies to All Municipalities				
	A. Generally, for all school districts:			
§ 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 school districts.			
	1. Contracts over \$175,000 (sealed bids or best value procurement)			
	a. Sealed bids			
§ 471.345, subd. 3	(1) Have all contracts estimated to exceed \$175,000 been let on sealed bids?			
	(2) Have the bids been solicited by public notice?			
Minn. Stat. §§ 15.17, 138.17	(3) Were bids preserved and on file if the appropriate records retention period has not expired? (See Introduction section entitled "Destruction of Records," pages iii – iv, and the entity's records retention schedule.)			
Minn. Stat. §§ 123B.52, subd. 1b; and 471.345, subds. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, sub. 1	If a best value procurement procedure was used as an alternative:			
Minn. Stat. §§ 123B.52, subd. 1b; and 471.345, subds. 3a, 4a, and 5	(1) Was the contract a contract for construction, building, alteration, improvement, repair or maintenance?			
§ 16C.28, subd. 1(c)	(2) Did the solicitation document state the relative weight of price and other selection criteria?			
	(3) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?			
	(4) If an interview of the vendor's or contractor's personnel was one of the selection criteria, was the relative weight of the interview stated in the solicitation document and applied accordingly? Minn. Stat. § 16C.28, subd. 1(c) (2008).			

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

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(b) revise the request for qualifications, and then solicit new proposals using the revised request for qualifications,			
	(c) select another procurement method, or			
	(d) reject all proposals?			
	(7) Did the municipality then issue a request for proposals requiring cost and other information from the short-listed proposers?			
	(8) Did the municipality enter into a guaranteed maximum price contract with the construction manager at risk?			
	2. Contracts from \$25,000 to \$175,000 can be made on sealed bids, by direct negotiation based on quotations, or through best value procurement.			
§ 471.345, subd. 4	a. Sealed bids or quotations			
	(1) Have contracts estimated to exceed \$25,000 but not to exceed \$175,000 been let on sealed bids or negotiated quotes?			
	(2) If sealed bids were used, were the requirements of A.1. met?			
	(3) If quotations were used and obtaining two or more quotes was possible, were two or more quotes obtained?			
	(4) If quotations were used, were the quotations kept on file for at least one year?			
Minn. Stat. §§ 123B.52, subd. 1b; and 471.345, subds. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, subd. 1	If a best value procurement procedure was used as an alternative:			
Minn. Stat. §§ 123B.52, subd. 1b; and 471.345, subds. 3a, 4a, and 5	(1) Was the contract a contract for construction, building, alteration, improvement, repair or maintenance?			
§ 16C.28, subd. 1(c)	(2) Did the solicitation document state the relative weight of price and other selection criteria?			
	(3) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(4) If an interview of the vendor's or contractor's personnel was one of the selection criteria, was the relative weight of the interview stated in the solicitation document and applied accordingly? Minn. Stat. § 16C.28, subd. 1(c) (2008).			
	3. Contracts estimated to be \$25,000 or less may be made either upon quotation, in the open market, or through best value procurement.			
§ 471.345, subd. 5	a. If quotations were used, are they on file?			
Minn. Stat. §§ 123B.52, subd. 1b; and 471.345, subs. 3a, 4a, and 5	b. Best value procurement alternative			
§ 16C.28, subd. 1	If a best value procurement procedure was used as an alternative:			
Minn. Stat. §§ 123B.52, subd. 1b; and 471.345, subs. 3a, 4a, and 5	(1) Was the contract a contract for construction, building, alteration, improvement, repair or maintenance?			
§ 16C.28, subd. 1(c)	(2) Did the solicitation document state the relative weight of price and other selection criteria?			
	(3) Was the award made to the vendor or contractor offering the best value applying the weighted selection criteria?			
	(4) If an interview of the vendor's or contractor's personnel was one of the selection criteria, was the relative weight of the interview stated in the solicitation document and applied accordingly? Minn. Stat. § 16C.28, subd. 1(c).			
§ 471.345, subd. 16	B. Reverse Auction Purchase			
	If the school district contracted to purchase using an electronic purchasing process:			
	1. Was the purchase a purchase of supplies, materials, or equipment, and <u>not</u> a contract for services or a service contract as defined in Minn. Stat. §§ 16C.02, subs. 7(a) and 17; and			
	2. Was the electronic process a purchasing process in which vendors competed to provide the supplies, materials, or equipment at the lowest selling price in an open and interactive environment?			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 471.345, subd. 17	C. Electronic Sale			
	If the school district 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 school district disseminated solicitations of bids, requests for information or requests for proposals by using a Web site or recognized industry trade journals:			
	1. Did the school district 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 school district designated an alternative means of dissemination, did it continue to publish solicitation of bids, requests for information, and requests for proposals in the official newspaper in addition to the alternative method?			
	4. Did the publication in the official newspaper indicate where to find the designated alternative method?			
§ 331A.01, subd. 11	Note: "Recognized industry trade journal" means a printed or digital publication or Web site that contains building and construction news of interest to contractors in this state, or that publishes project advertisements and bids for review by contractors or other interested bidders in its regular course of business.			
§ 471.345, subd. 15	E. If the municipality contracted for the purchase of supplies, materials, or equipment without regard to competitive bidding requirements, was the purchase through the State of Minnesota's cooperative purchasing venture or a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations?			
§ 471.345, subd. 15	F. For each contract for the purchase of supplies, materials, or equipment over \$25,000, did the municipality consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture before purchasing through another source?			

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>				
§ 16C.285	<p>G. Responsible Contractor Requirement</p> <p>For each construction contract in excess of \$50,000, awarded pursuant to a lowest responsible bidder or best value process, did the successful contractor submit a verification of compliance signed under oath by an owner or officer verifying compliance with the minimum criteria set forth in Minn. Stat. § 16C.285, subdivision 3 (with the exception of clause (7), as required by Minn. Stat. § 16C.285, subdivision 4?</p>				
	<p>H. Other Considerations</p>				
§ 471.35	<p>1. Specifications on contracts. If sealed bids were solicited, were the specifications written so as not to exclude all but one type or kind of supplies or equipment?</p>				
	<p>2. Interest in contract. (<u>See</u> Conflicts of Interest Section, page 2-1.)</p>				
§ 574.26	<p>3. Contractor's performance and payment bonds. Contractors doing public work are required to give both a performance bond and a payment bond in an amount not less than the contract price if the contract is more than \$175,000.</p>				
	<p>a. Were bonds received for all contracts greater than \$175,000?</p>				
	<p>b. Were the amounts sufficient?</p>				
	<p>Note: The contractor's performance and payment bond requirement does not apply to contracts for snow removal, ice removal, grading, or other similar routine road maintenance on town roads.</p>				
§ 574.261, subd. 1a	<p>Note: If the project is under \$50,000, contractor may provide for irrevocable bank letter of credit in place of a performance bond provided the letter of credit is subject to the same conditions as a performance bond.</p>				
	<p>For school district contracts limited to the purchase of a finished tangible product, <u>see</u> note in Part II.D., <u>infra</u>.</p>				
§ 471.6161	<p>I. Group Insurance</p>				
	<p>A school district that provides group insurance for 25 or more employees must comply with certain bidding requirements in contracting for or renewing said insurance.</p>				
§ 43A.316, subd. 10	<p>Note: School districts participating in the public employee insurance program are exempt from the bidding requirements of Minn. Stat. § 471.6161. If this exemption does <u>not</u> apply:</p>				

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
§ 471.6161, subd. 2	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?			
§ 471.6161, subd. 3	4. Was a written rationale explaining the political subdivision's decision prepared prior to entering into a contract?			
§ 471.6161, subd. 8	5. If the exclusive representative of the largest employment group in the school district <u>did not</u> agree otherwise, was the term of the contract two years or less?			
§ 471.3455	J. Public Safety Equipment Purchase or Lease (Applies to statutory or home rule charter cities, counties, towns, special taxing districts or any other political subdivision that acquires public safety equipment.)			
	If equipment was acquired pursuant to this statute without competitive bidding or proposals:			
	1. Was the public safety equipment <u>used, and</u>			
	2. was the equipment "public safety equipment," defined as vehicles and specialized equipment used by a fire department, as defined in Minn. Stat. § 299N.01, subdivision 2, in firefighting, ambulance and emergency medical treatment services, rescue, and hazardous materials response, <u>and</u>			
	3. was the equipment clearly and legitimately limited to a single source of supply?			
§ 471.425, subd. 4a	K. Did each contract between the school district 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?			

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

Part II. Laws Relating Specifically to School Districts				
§ 123B.52, subd. 1	A. School Districts (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			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	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.			
	3. Contract Duration			
	a. If the contract was a standard requirement price contract awarded on bid, did the term of the contract not exceed two years with an option on the part of the school district to renew for an additional two years?			
	Note: Food service contracts in compliance with 7 cfr 210.16 may be renewed annually after their initial term for not more than four years. Contracts for the transportation of school children or fuel for heating or transportation must not exceed ten years.			
§ 123B.52, subd. 1	4. 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	5. 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	6. 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.			
	(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.			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
	(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	7. 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	8. 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 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, the family of a student residing in the district whose total family income meets the federal definition of poverty, or a 501(c)(3) charitable organization registered with the Attorney General's Office for educational use, or			
	Sell or give the computer/tablet used primarily by students, to a qualified student in accordance with a board resolution made pursuant to Minn. Stat. § 123B.52, subd., 6. Students are eligible to apply for the computer/tablet if they are currently enrolled and intend to enroll the year after receipt of the computer/tablet. If more students apply than available computers/tablets, school must first qualify students from families eligible for free or reduced-priced meals, then dispose of the remaining computers/tablets by lottery.			

Minn. Stat. Section	CONTRACTING - BID LAWS	Yes	No	Workpaper Reference
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Part III. Audit Conclusion

The auditor must state a conclusion--based on this questionnaire and any other audit procedures performed--whether the client has complied with the legal provisions reviewed relating to contracting and bidding.

Conclusion:

**SCHOOL DISTRICT
CLAIMS AND DISBURSEMENTS**

LEGAL COMPLIANCE AUDIT GUIDE

CLAIMS AND DISBURSEMENTS

Introduction

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

“Municipality” for the purposes of this section includes school districts. In addition, Minn. Stat. § 471.425 (Prompt Payment of Local Government Bills), applies to school districts.

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS			Yes	No	Workpaper Reference
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Part I. General Provisions						
§ 471.38, subd. 1	A. Has every person, or the person's agent, claiming payment provided an itemized list in writing or electronic transaction record?				§ 471.425, subd. 2	B. Prompt Payment of Local Government Bills
	- Standard payment period is:					
	- 35 days from receipt for governing boards that meet at least once a month;					
	- 45 days from receipt of goods or services or invoice, whichever is later, for governing boards that do not meet at least once per month; and					
	- 45 days from receipt for joint powers entities.					
§ 471.425, subd. 2	1. Were all bills paid within the time period set by the terms of the contract or within the standard payment period?					
§ 471.425, subd. 4	- The government entity must pay interest on bills not paid in a timely manner. The interest rate is 1½ percent per month or part of a month. The minimum monthly interest on a bill of \$100 or more is \$10.					
§ 471.425, subd. 4	2. For bills paid after the time period set by the contract or the standard payment period, did the government entity calculate and pay interest as required by law?					
	Note: The interest penalties in these questions do not apply to good faith disputes.					

Part II. Electronic Funds Transfer - For School Districts Specifically						
§§ 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?					

Minn. Stat. Section	CLAIMS AND DISBURSEMENTS	Yes	No	Workpaper Reference
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	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 chief financial officer or the officer’s designee?			
	2. the disbursing bank to keep a certified copy of delegation of authority?			
	3. identification of the initiator of each electronic transfer?			
	4. the initiator to document the request and obtain approval for each transfer from the chief financial officer or the officer’s designee, before initiating the transfer, as required by the internal control policies?			
	5. written confirmation of each transaction within one business day?			
	6. a list of transactions to be submitted to the school board at the next regular meeting after the transaction?			

Part III. Payments With Credit Cards - School Districts

§ 123B.02, subd. 23	A. If a school district officer or employee made a purchase on behalf of the school district by credit card:			
	1. Had the 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 school district; and			
	3. Did the purchase otherwise comply with all statutes, rules, and school district policies applicable to school district purchases?			
	B. If a school district officer or employee made a purchase by credit card that was not approved by the school district, was the officer or employee held personally liable for the amount of the purchase?			

Part IV. Audit Conclusion

The auditor must state a conclusion--based on this questionnaire and any other audit procedures performed--whether the client has complied with the legal provisions reviewed relating to claims and disbursements.

Conclusion:

**SCHOOL DISTRICT
EXAMPLES OF INDEPENDENT AUDITOR'S REPORTS**

LEGAL COMPLIANCE AUDIT GUIDE

EXAMPLES OF INDEPENDENT AUDITOR'S REPORTS

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

Independent auditor's report for *school districts*. (Note: Eliminate this paragraph in red before issuing the report. Professional guidance can be found at AU-C 806.)

MINNESOTA LEGAL COMPLIANCE

Independent Auditor's Report

(School Board)
(School District)

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of the *(list related opinion units)* of *(district name)* as of and for the year ended June 30, 2024, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our report thereon dated _____.

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

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

In connection with our audit, we noted that *(district name)* failed to comply with provisions of the *(list section titles of guide in which noncompliance was identified)* of the *Minnesota Legal Compliance Audit Guide for School Districts*, promulgated by the State Auditor pursuant to Minn. Stat. § 6.65, insofar as they relate to accounting matters as described in the *(schedule name where findings are listed)* as items *(list related finding reference numbers)*. Also, in connection with our audit, nothing came to our attention that caused us to believe that *(district name)* failed to comply with the provisions of the contracting – bid laws, depositories of public funds and public investments, conflicts of interest, public indebtedness, claims and disbursements, miscellaneous provisions, and uniform financial accounting and reporting standards for Minnesota school districts (UFARS) *(delete sections not required to test & delete any section titles that identified reported findings)* sections of the *Minnesota Legal Compliance Audit Guide for School Districts*, insofar as they relate to accounting matters. However, our audit was not directed

primarily toward obtaining knowledge of such noncompliance. Accordingly, had we performed additional procedures, other matters may have come to our attention regarding the District's noncompliance with the above referenced provisions, insofar as they relate to accounting matters.

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

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

(Signature)
(Date)

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

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN
AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Independent Auditor's Report

(School Board)
(School District)

We have audited, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, the financial statements of (*list related opinion units*) of (*district name*) as of and for the year ended June 30, 2024, and the related notes to the financial statements, which collectively comprise the District's basic financial statements, and have issued our report thereon dated _____.

Internal Control Over Financial Reporting*

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

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

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

Report on Compliance and Other Matters**

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

Minnesota Legal Compliance

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

[District Name]'s Response to Findings

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

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

Purpose of This Report

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

(Signature)

(Date)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LEGAL COMPLIANCE AUDIT GUIDE

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

Introduction

Minnesota law requires that the audits of all school districts, all governmental units formed by joint powers agreements entered into by school districts, and all service cooperatives and education districts must include a determination of compliance with uniform financial accounting and reporting standards (UFARS). Minn. Stat. §§ 6.65; 123B.77, subd. 3. This requirement applies to charter schools under Minn. Stat. § 124E.16, subd. 1(a).

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

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

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

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

Uniform Financial Accounting and Reporting Standards (UFARS)

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

UFARS Compliance

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

Account Coding

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

1. Revenue and expenditure account codes that have been developed by school districts for their internal use must be linked (crosswalked) to the appropriate 17-digit UFARS codes. In some cases, the internal district code bears little resemblance to the UFARS code. The underlying UFARS codes, not the district codes, are used for automated reporting to the state.
2. Audit procedures should be developed to ensure that revenues and expenditures have been recorded in the proper UFARS codes.
 - A. Such procedures must include tests of controls as identified in and where required by the American Institute of Certified Public Accountants (AICPA) Statement of Auditing Standards – Clarity, Section AU-C 330, *Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained*. The procedures developed should be in response to assessed risks identified pursuant to Section AU-C 315, *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement*. Sampling may be used to determine the reasonableness of recorded UFARS amounts and classifications based on examination of source documentation.
 - B. Such audit procedures may include the following:
 - Verify appropriate UFARS coding as part of a test of transactions (individual revenue and expenditure transactions).
 - Test linkage (crosswalk) of internal use account codes to the appropriate 17-digit UFARS codes.
 - Review the “UFARS Turnaround Edit Report” for errors. (To access the report, select “Minnesota Funding Reports (MFR)” at: <https://public.education.mn.gov/MDEAnalytics/DataTopic.jsp?TOPICID=9>, then use the drop downs.)
 - Verify appropriate UFARS coding as part of testing of revenue and expenditure account totals for the year.
 - Other tests that are considered necessary.

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

Audit Reporting

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

**SCHOOL DISTRICT
MISCELLANEOUS PROVISIONS**

LEGAL COMPLIANCE AUDIT GUIDE

POLITICAL SUBDIVISION MISCELLANEOUS PROVISIONS

Introduction

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

Minn. Stat. Section	MISCELLANEOUS PROVISIONS		Yes	No	Workpaper Reference
Part I. School Districts 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.05, subd. 1(d), 13D.03	3. Were all closed meetings, except those closed as permitted by the attorney-client privilege, electronically recorded at the expense of the public body?				
§§ 345.38-.43	B. Unclaimed Property (Applies to any court, public corporation, public authority or public officer of this state, or a political subdivision.)				
	If the political subdivision's records show unclaimed or uncashed checks or other intangible property held for more than three years (or one year for unpaid compensation); was the property reported and paid or delivered to the state Commissioner of Commerce pursuant to Minn. Stat. §§ 345.41, .43?				
§ 465.03	C. Acceptance of Gifts (Applies to any city, county, school district or town.)				
	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?				
§ 471.665, subd. 3	D. Mileage Reimbursement/Automobile allowance (Applies to any county, home rule charter or statutory city, town, or school district.) [Note: The City of St. Paul and counties having more than 550,000 inhabitants have additional authority. <u>See</u> Minn. Stat. § 471.665, subd. 2.]				
	If the entity has established an automobile allowance for any officer or employee, is the allowance <u>in lieu of</u> all other mileage reimbursement to that officer or employee?				
§§ 15.17 & 138.17	E. Destruction of Records (Applies to all political subdivisions.)				
	If the entity disposed of government records, did it do so in compliance with a validly adopted records retention schedule or "Application for Authority to Dispose of Records?"				

Minn. Stat. Section	MISCELLANEOUS PROVISIONS	Yes	No	Workpaper Reference
	F. Public Purpose (Applies to all political subdivisions.)			
Ops. Atty. Gen. 442a-17, Jan. 17, 1938; 59a-22, Nov. 23, 1966; 270-D, Aug. 12, 1977; 174E, March 24, 1970	1. Did the entity refrain from donating money to people, nonprofit organizations, and charities unless allowed by specific authority?			
	2. Did the entity refrain from paying for Christmas parties and other employee social events?			
	3. Did the entity refrain from paying retroactive bonuses or pay increases unless the bonus or pay increase was paid under a pre-existing agreement or pursuant to collective bargaining?			
§ 471.661	G. Out-of-State Travel Policy (Applies to each city, county, school district, regional agency, or other political subdivision, <u>except</u> a town.)			
	1. Does the unit of government have on record a policy that controls travel outside the state of Minnesota for the applicable elected officials of the relevant unit of government?			
	2. Was the policy initially approved and were subsequent changes, if any, approved by a recorded vote?			
	3. Does the policy specify:			
	a. when travel outside the state is appropriate;			
	b. applicable expense limits; <u>and</u>			
	c. procedures for approval of the travel?			
	4. Is the policy available for public inspection upon request?			
§ 471.6175	H. If a trust for Other Post-Employment Benefits (OPEB) was created pursuant to Minn. Stat. Section 471.6175, did the trust administrator report, no later than October 25th, to the State Auditor's Office the investment return information required by Minn. Stat. Section 471.6175, subd. 4?			

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