

Fairfield County Auditor — Finance Internal Control Manual

Excerpts from the Ohio Compliance Supplement

Legal Compliance Control Procedures and Substantive Tests

Section A: General Budgetary Requirement

1-9 Compliance Requirements: Ohio Rev. Code Section 5705.41 (A), (B), (C) and (D)-Restrictions on the appropriation and expenditure of money.

Summary of Requirements: The authorization of a bond issue is deemed an appropriation of the proceeds of the bond issue for the purpose for which such bonds were issued. No expenditure shall be made from any bond fund until first authorized by the taxing authority. [Section 5705.41(A)].

No subdivision or taxing unit is to expend money unless it has been appropriated. [Section 5705.41(B)].

No subdivision is to expend money except by a proper warrant drawn against an appropriate fund. [Section 5705.41(C)].

No orders or contracts involving the expenditure of money are to be made unless there is a certificate of the fiscal officer that the amount required for the order or contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances. [Section 5705.41(D)].

The following exceptions to this basic requirement are provided by statute:

Then and Now Certificate: This exception provides that, if the fiscal officer can certify that both at the time that the contract or order was made and at the time that he is completing his certification, sufficient funds were available or in the process of collection, to the credit of a proper fund, properly appropriated and free from any previous encumbrance, the taxing authority can authorize the drawing of a warrant. The taxing authority has 30 days from the receipt of such certificate to approve payment by resolution or ordinance. If approval is not made within 30 days, there is no legal liability on the part of the subdivision or taxing district.

Amounts of less than \$100 for counties, or less than \$1,000 for other political subdivisions, may be paid by the fiscal officer without such affirmation of the taxing authority upon completion of the "then and now" certificate, provided that the expenditure is otherwise lawful. This does not eliminate any otherwise applicable requirement for approval of expenditures by the taxing authority. [Section 5705.41(D)].

Continuing Contracts to be Performed in Whole or in Part in an Ensuing Fiscal Year - Where a continuing contract is to be performed in whole or in part in an ensuing fiscal year, only the amount required to meet those amounts in the fiscal year in which the contract is made need be certified. (1987 Op. Atty. Gen. 87-069).

Per Unit Contracts - Where contracts are entered into on a per unit basis, only the amount estimated to become due in the current fiscal year need be certified. (1987 Op. Atty. Gen. 87-069).

Contract or Lease Running Beyond the Termination of the Fiscal Year Made - Pursuant to Section 5705.44, Ohio Rev. Code, where a contract or lease runs beyond the termination of the fiscal year in which it is made, only the amount of the obligation maturing in the current fiscal year need be certified. The remaining amount is a fixed charge required to be provided for in the subsequent fiscal year's appropriations.

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County Commissioner Authorization - A board of county commissioners, by resolution, may exempt purchases of \$750 or less from the prior certification requirement. The resolution must specify the dollar limit applicable to such purchases and whether it applies to all purchases, is limited to certain classes of purchases, or is limited to specific purchases. The board must notify the county auditor in writing of its intention to adopt such a resolution and the scope of the resolution. The county auditor has 15 days to comment on the resolution before it may be adopted by the board. Where such a resolution has been adopted, any person authorized to make purchases, within 3 business days of making a purchase exempted under the resolution, must file with the county auditor a written document stating the purpose, amount, and date of the purchase, and the name of the vendor.

The Attorney General, in 1987 Op. Atty. Gen. No. 87-069, has clarified the application of the exceptions set forth above. In summary, he has indicated that:

If a government subject to Ohio Rev. Code Section 5705.41 (D) enters into a continuing contract under which no goods or services will be delivered during the current fiscal year and payment will not be due until delivery, no amount need be certified as available during the current fiscal year. Pursuant to Ohio Rev. Code Section 5705.44, the amount remaining unpaid at the end of a fiscal year to become due in the next fiscal year must be included in the annual appropriation measure for the next fiscal year as a fixed charge.

If under a continuing contract it cannot be determined whether delivery of goods or services and the obligation to make payment will take place in the current or an ensuing fiscal year, the total amount due under the contract must be certified as available during the current year.

If under a continuing contract delivery of goods or services is to occur in the current fiscal year with the obligation to make payment deferred until an ensuing fiscal year, the amount required to meet the obligation for goods or services delivered during the current fiscal year must be certified as available in that fiscal year.

If a government subject to Ohio Rev. Code Section 5705.41 (D), enters into a contract that is not a continuing contract, the total amount due under the contract must be certified as available in the fiscal year in which the contract is made, regardless of when delivery of goods or services will be made or when payment will become due.

In determining how the government ensures compliance, consider the following:

- Policies and Procedures Manuals
- Knowledge and Training of personnel
- Budgetary/Purchasing Accounting/Monitoring System
- Legislative and Management Monitoring
- Review/Comparison/Recomputations of Purchase Documents
- Management's identification of changes in laws and regulations
- Management's communication of changes in laws and regulations to employees

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Suggested Audit Procedures - Compliance (Substantive) Tests

Compare total expenditures and contract commitments (including outstanding encumbrances) from each fund with appropriations and determine if the expenditures and commitments are within the appropriations for each fund.

For selected "line items," compare total expenditures and contract commitments (including outstanding encumbrances) at the legal level of control within selected funds with appropriations. Determine if the expenditures and commitments are within the appropriation at the legal level of control. (The "legal level of control" is defined on page 1-1, and in Audit Division Advisory Memo 97-10.)

Search for material unrecorded liabilities and/or encumbrances. Refer to minutes and records immediately following the fiscal year cutoff date.

Compare the date of the fiscal certificates with invoice dates, noting whether or not the certificate date precedes the invoice/obligation date. (Note: the obligation date may precede the invoice date. If separately identified, the obligation date should be used when determining compliance.)
