



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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Date: October 22, 2015

To: All political subdivisions

Re: Public Official Bonds

The State Board of Accounts (SBOA) received numerous questions, concerns, and comments from a variety of sources regarding the changes made to Ind. Code § 5-4-1-18 by Senate Enrolled Act (SEA) 393. In response, the SBOA is issuing the attached Updated Bulletin on SEA 393, which replaces the bulletin issued on July 24, 2015. The attached bulletin addresses or clarifies the following issues:

1. The SBOA will not take audit exception to schedule bonds—by name or position—if the bonds are authorized by ordinance, endorsed to cover faithful performance, and include aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded.

2. The SBOA will not take audit exception if a political subdivision purchases a crime insurance policy in lieu of a bond if the crime insurance policy is authorized by ordinance, endorsed to cover faithful performance, and includes aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded.

3. It is the audit position of the SBOA that, for purposes of IC 5-4-1-18(a)(7), a “contractor” is a person or business in a contractual relationship with the political subdivision who has a fiduciary relationship with or performs a fiscal responsibility for the political subdivision, and whose accounts are not otherwise covered by the Federal Deposit Insurance Corporation (FDIC).

4. Considering materiality and the risk of loss to political subdivisions, the SBOA will not take audit exception if employees of a political subdivision who receive, process, deposit, disburse, or otherwise have access to public funds in an amount less than \$5,000 are not bonded.

5. Considering materiality and the risk of loss to the governing body of a school corporation, the SBOA will not take audit exception if individuals who receive, process, deposit, disburse, or otherwise have access to public funds in an amount less than \$100 per event or duty are not bonded.

Sincerely,

Paul D. Joyce, CPA
State Examiner

State Board of Accounts
Updated Bulletin on SEA 393
October 22, 2015

I. Minimum Bond Amounts

- A. **\$30,000 per \$1,000,000 of Receipts.** The bond amount must be at least \$30,000, but not greater than \$300,000 unless approved by the fiscal body. IC 5-4-1-18(d)(1), (2).
1. The following individuals identified in IC 5-4-1-18(d):
 - City controllers
 - City clerk-treasurers
 - Town clerk treasurers
 - Barret Law fund custodians
 - County treasurers
 - County sheriffs
 - Circuit court clerks
 - Township trustees
 - Conservancy district financial clerks
 2. Solid waste management district controller. IC 5-4-1-18(f).
- B. **\$30,000.** County auditors must file bonds in amounts of not less than \$30,000 as fixed by the fiscal body of the county. IC 5-4-1-18(d).
- C. **\$15,000.**
1. The following individuals identified in IC 5-4-1-18(e)(1):
 - City judges
 - City clerks
 - Town judges
 - County recorder
 - County surveyor
 - County coroner
 - County assessor
 2. Any employee directed to file an individual bond by the fiscal body of a city, town, or county. IC 5-4-1-18(a)(5).
- D. **\$5,000.** Employees or contractors of a city, town, county, or township “whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity.” IC 5-4-1-18(a)(7), (e)(2).
- E. The State Board of Accounts (SBOA) may increase minimum bond coverage amounts if an examination report finds malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds. IC 5-4-1-18(j), (k), (l).

II. Bond Terms

- A. **One Year.** Effective January 1, 2016, all bonds must have a one year term. IC 5-4-1-18(m)(1). Consecutive yearly bonds must provide separate coverage for each year. IC 5-4-1-18(m)(2).

We will not take audit exception to a new calendar year bond term greater than one year if the current bond expires before December 31, 2015. For example, if the current bond expires on September 30, 2015, we will not take exception to a new bond term from October 1, 2015 to December 31, 2016, even though it is greater than one year.

Similarly, we will not take audit exception to a new calendar year bond term less than one year if the current bond expires after December 31, 2015, but before December 31, 2016. For example, if the current bond expires on March 31, 2016, we will not take exception to a new bond term from April 1, 2016 to December 31, 2016, even though it is less than one year.

- B. **Term of Office.** Term bonds issued on or after January 1, 2016, are not allowable pursuant to IC 5-4-1-18(m)(1). We recommend that all current term bonds be converted to one year bonds starting January 1, 2016, to comply with the spirit of the amended statute and to reduce the risk of financial exposure to the local unit.

III. Other Types of Bonds

- A. **Blanket Bonds.** Blanket bonds are allowable if they are authorized by ordinance, endorsed to cover faithful performance, and include aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded. IC 5-4-1-18(b).
- B. **Schedule Bonds.** We will not take audit exception to schedule bonds—by name or position—if the bonds are authorized by ordinance, endorsed to cover faithful performance, and include aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded.
- C. **Crime Insurance Policies.** Crime insurance policies providing additional coverage for criminal acts or omissions committed by officers, employees, or contractors are permitted if they are authorized by ordinance or resolution. IC 5-4-1-18(c). The SBOA will not take audit exception if a political subdivision purchases a crime insurance policy in lieu of a bond if the crime insurance policy is authorized by ordinance, endorsed to cover faithful performance, and includes aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded.

IV. Aggregate Liability

The aggregate liability for a surety or insurer for a policy year is the sum of the amounts specified in the bonds issued by the surety or insurer for that policy year. IC 5-4-1-18(m)(2). For example, if a clerk-treasurer has four consecutive yearly bonds for \$30,000, the maximum liability of the insurer will be \$30,000 in each of the four years.

V. Commencement Date

Effective January 1, 2016, all bonds must commence on one of the following:

1. The first day of the calendar year;
2. The first day of the fiscal year of the political subdivision or governmental unit; or
3. The first day of the individual's service in the office or employment position for which a bond is required. IC 5-4-1-18(m)(1).

VI. Payee

All official bonds shall be made payable to the State of Indiana. IC 5-4-1-10. The State is considered an additional named insured on all crime insurance policies. IC 5-4-1-18(c).

VII. Recording

- A. All bonds must be filed with the county recorder (officials and employees of the county recorder must file with the clerk of the circuit court). Beginning July 1, 2015, copies of the bonds must also be filed with the fiscal officer of the political subdivision. IC 5-4-1-5.1(b).
- B. The fiscal officer of the political subdivision must submit copies of all bonds to the State Board of Accounts electronically via Gateway with their Annual Financial Report. IC 5-4-1-5.1(e).
- C. Bonds must be filed with the county recorder and the fiscal officer of the political subdivision within ten days after their issuance. IC 5-4-1-5.1(c).
- D. Current bonds already filed with the county recorder are not required to be re-filed with the fiscal officer of the political subdivision. For example, a bond obtained in January 2015, and properly filed with the county recorder does not need to be filed with the fiscal officer of the political subdivision. However, when the January 2015 bond expires and a new bond is obtained in January 2016, it must be filed with both the county recorder and fiscal officer of the political subdivision.

VIII. Bonds for Employees and Contractors

IC 5-4-1-18(a)(7) states that bonds are required for individuals "(A) who are employees or contractors of a city, town, county, or township; and (B) whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity."

It is the audit position of the SBOA that, for purposes of IC 5-4-1-18(a)(7), a "contractor" is a person or business in a contractual relationship with the political subdivision who has a fiduciary relationship with or performs a fiscal responsibility for the political subdivision, and whose accounts are not otherwise covered by the Federal Deposit Insurance Corporation. For example, a contractor providing payroll or billing services for the political subdivision is required to be bonded, but a snow removal contractor or lawn service provider is likely not required to be bonded.

Political subdivisions must determine who must be bonded under the statute. The term "official duties" is not defined. It is our position that "official duties" may include duties set forth in a job description, duties that are customary or routinely performed, or duties that are assigned but not frequently performed. For

example, if an office has eight employees who routinely accept payments at the clerk's counter, then all eight employees must be bonded. If an employee is assigned to accept certain registration fees but only receives funds once every other year, then that employee must be bonded.

There is no dollar threshold or *de minimis* exception in the statute. However, considering materiality and the risk of loss to political subdivisions, the SBOA will not take audit exception if employees of the political subdivision who receive, process, deposit, disburse, or otherwise have access to public funds in an amount less than \$5,000 are not bonded.

IX. Bonds for Other Public Officials

Bonds for public officials are required in statutes other than IC 5-4-1-18. For example, redevelopment commissioners, library treasurers, police commissioners, and deputy marshals must all be bonded. For these officials, we take the following position:

- A. The minimum amount of the bond must be the amount stated in the statute at issue. If no amount is stated, we recommend a minimum of \$5,000, unless the position mirrors one of the offices listed in IC 5-4-1-18(a)(1)-(6). For example, we recommend a minimum bond of \$15,000 for a library treasurer.
- B. If the statute is silent as to the term of bond required, we recommend an annual bond. We will not take audit exception to a term bond or a continuation bond as long as the minimum amount of coverage is provided each year.
- C. The bond type may be individual or blanket, as long as the blanket bond is (1) authorized by ordinance, (2) endorsed to include faithful performance, and (3) includes aggregate coverage sufficient to provide coverage amounts specified for all individuals required to be bonded. *See* IC 5-4-1-18(b).

X. Bonds for School Treasurers

- A. **School Treasurers.** School treasurers, deputy treasurers, and "any individual whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to a school corporation or the governing body of a school corporation" must be bonded. IC 20-26-4-5(a).
 - 1. The bond amount is determined by the school corporation's governing body. IC 20-26-4-5(a).
 - 2. The term of the bond is one year commencing on July 1.
 - 3. The bond may be an individual bond, or a blanket bond if (1) the blanket bond is endorsed "to cover the faithful performance of all employees and individuals acting on behalf of the governing body or the governing body's school corporation," and (2) "includes aggregate coverage sufficient to provide coverage amounts specified for each individual required" to be bonded. IC 20-26-4-5(b).
 - 4. The governing body must determine who must be bonded under the statute. The term "official duties" is not defined. It is our position that "official duties" may include duties set forth in a job description, duties that are customary or routinely performed, or duties that are assigned but not frequently performed. For

example, cafeteria cashiers, teachers who routinely collect lunch money from students, and employees who collect textbook rental fees must be bonded. The statute does not require the individual to be an employee of the school corporation. So, for example, parents volunteering in the school lunchroom or at an extracurricular sporting event must be bonded if their official volunteer duties include receiving public funds such as lunch money or admission fees.

5. There is no dollar threshold or *de minimis* exception in the statute. However, considering materiality and the risk of loss to the governing body, the SBOA will not take audit exception if individuals who receive, process, deposit, disburse, or otherwise have access to public funds in an amount less than \$100 per event or duty are not bonded.
6. We recommend that all bonds be filed with and kept by the trustee or board of school trustees. Copies of the bonds must also be submitted to the State Board of Accounts electronically via Gateway with the school's Annual Financial Report.

B. Extracurricular Treasurers. Extracurricular account treasurers must be bonded if they handle funds in excess of \$300 during the school year. IC 20-41-1-6(a).

1. The bond amount is determined by the superintendent and principal of the school approximating the total "anticipated funds that will come into the possession of the treasurer at any one time during the regular school year." IC 20-41-1-6(a). If school lunch or textbook rental fees are handled by an extracurricular treasurer, then the governing body must set the amount of the bond "sufficient to protect the account for all funds coming into the hands of the treasurer of the account." IC 20-41-2-6(b).
2. The term of the bond is not specified, but an extracurricular treasurer must be designated "immediately upon the opening of the school term...." Thus, we recommend an annual bond commencing on July 1.
3. The bond may be an individual bond or a blanket position bond for all extracurricular account treasurers. IC 20-41-1-6(b).
4. The bond must be filed with the trustee or board of school trustees. IC 20-41-1-6(a). A copy of the bond must also be submitted to the State Board of Accounts electronically via Gateway with the school's Annual Financial Report.