

# CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

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March 2009

## JUNE TRAINING SCHOOL

This year's June Training School will be held in French Lick as part of the Indiana League of Municipal Clerks and Treasurers' Annual Conference during the week of June 14 through June 18, 2009.

The Conference and School will be held at the French Lick Resort Event Center.

The State Board of Accounts will be conducting two (2) days of training (June 16 and 17) at the Conference which will be State-called meeting days.

Please mark these dates on your calendar. An explanatory letter along with a tentative agenda will be mailed prior to the meeting.

## TRAVEL EXPENSE

The following sets forth the audit position of the State Board of Accounts with regard to reimbursements made by local governmental units to their officers and employees for travel and meal expenses.

A local unit may reimburse such persons for actual miles traveled in their own motor vehicles on official business of the local unit at a reasonable rate per mile as fixed by an ordinance or resolution of the unit's legislative body. The mileage rate should be fixed by the board or commission having authority to approve claims for travel expenses. No particular mileage rate has been set by the State of Indiana for local units of government and, consequently, the mileage rate lies within the discretion of legislative body, board or commission, unless otherwise provided by statute. The body setting the mileage rate should also determine whether parking fees and toll charges are included in the rate or, on the other hand, whether such expenses are to be reimbursed separately based on the submission of receipts.

Reimbursed mileage should not include travel to and from the officer's or employee's home and regular place of employment. If more than one person rides in the same vehicle, only one mileage reimbursement is allowable. General Form 101 (or an approved substitute) should be used for claiming mileage. The odometer reading columns on this form are to be used only when the distance between points cannot be determined by fixed mileage or official highway maps.

When traveling outside the local unit's boundaries on official business, officers and employees may also be reimbursed for meals, lodging, and incidental expenses as defined in the travel policy. The claim for reimbursement should be supported by itemized receipts from hotels, restaurants, and taxi cabs used by the officer or employee while traveling on official business.

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It is permissible for the legislative body of the local unit or the board or commission having the authority to approve claims to adopt an ordinance or resolution establishing a reasonable per diem rate intended to cover travel expenses other than hotel and mileage costs and the officer or employee may be reimbursed on the basis of such a per diem rate in lieu of submitting receipts. If a fixed per diem rate is established by policy, the policy should clearly indicate which type of expenses, in addition to meals, are included in the rate and which related expenses are to be reimbursed on the basis of actual receipts being submitted by the officer or employee. The policy should also define the local unit's boundaries for purposes of reimbursing travel; i.e. outside a 50-mile radius of the office, outside of the county, etc. The policy should cover a proportionate reduction in the per diem rate when meals are provided by an outside party.

When state statutes (See the two following articles) govern the amounts of allowable travel reimbursements, those statutes supersede local policy. Also, when determining the reasonableness of a mileage rate or per diem rate, consideration should be given to rates established by the State of Indiana and the Federal government. The local unit should, however, consider the income tax implications of setting its rates higher than the current Federal rates.

In all cases, an officer or employee requesting reimbursement for overnight travel is required to submit a receipt from the hotel or other meeting place where such accommodations were provided.

### **MEAL EXPENSE ADVANCES**

IC 5-11-10-1.6 allows cities and towns to make meal expense advances to city or town employees who will be traveling on official city or town business if the city or town fiscal body has adopted an ordinance allowing the advance payment. The ordinance must specify a maximum amount that may be paid in advance and specify the required invoices and other documentation that must be submitted by city or town employees. The ordinance must provide for reimbursement from the wages of city or town employees if the employees do not submit the required invoices and documentation.

### **STATE CALLED MEETINGS – TRAVEL EXPENSES**

IC 5-11-14-1 allows for city and town officials who attend State-called meetings to be reimbursed for travel expenses from unappropriated funds and provides that a claim for reimbursement of travel expenses incurred while attending a State-called meeting may not be denied by the body responsible for the approval of the claim if the claim complies with IC 5-11-10-1.6 and IC 5-11-14-1.

### **CITIES AND TOWNS MANUAL AND BULLETINS**

The Accounting and Uniform Compliance Guidelines Manual for Cities and Towns and the Cities and Towns Bulletins are available on our web page at [www.in.gov/sboa](http://www.in.gov/sboa). Future distributions of these publications will be made electronically to the email address listed in the ILMCT Directory. If your email address has changed since the last publication of the Directory, please notify us of your new address.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### **POLICE OFFICERS AND FIREFIGHTERS – CLOTHING AND EQUIPMENT ALLOWANCE**

IC 36-8-4-4 states: “(a) A city shall provide the active members of the police and fire departments with all uniforms, clothing, arms, and equipment necessary to perform their duties. After one (1) year of regular service in either department, a member may be required by the city to furnish and maintain all of his uniforms, clothing, arms, and equipment upon payment to the member by the city of an annual cash allowance of at least two hundred dollars (\$200). The city may credit the allowance to each member against his purchases during the calendar year and provide for payment of any cash balance remaining at the end of the calendar year.”

“(b) All uniforms, clothing, arms, and equipment provided by the city under this section remain the property the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city. Any property lost or destroyed through the carelessness or neglect of a member shall be charged against the member and the value deducted from his pay.”

In response to recurring inquiries, the following audit positions have been established.

1. The city shall provide active members of the police and fire department with clothing and equipment. After one year of regular service the city may require the department members to maintain their clothing and equipment by payment of a cash allowance.
2. The cash allowance is “at least two hundred dollars (\$200)”; however, the common council has authority to establish, by ordinance, the amount of clothing allowance payable to each police officer and firefighter.
3. The cash payments shall be made only after service has been rendered.
4. Volunteer firefighters do not qualify for this allowance since IC 36-8-12-5 establishes statutory amounts authorized for clothing and auto allowance. See following article.
5. Town police officers do not qualify for this allowance. See following article.

### **VOLUNTEER FIREFIGHTERS – CLOTHING AND AUTOMOBILE ALLOWANCES**

IC 36-8-12-5 states: “(a) Unless otherwise provided by contract, a unit served by a volunteer fire department shall pay to each active and participating member of the department: (1) a clothing allowance of not less than one hundred dollars (\$100) per year; and (2) an automobile allowance of not less than one hundred dollars (\$100) per year for the use of the member’s automobile in the line of duty.”

“(b) a contract may also provide that fees for membership in a regularly organized volunteer firefighters’ association be paid by the unit on behalf of the firefighters in the volunteer fire department.”

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### **TOWN MARSHALS – CLOTHING AND EQUIPMENT ALLOWANCES**

We find no specific statutory reference authorizing a clothing allowance for a town marshal or his/her deputies. However, it appears if the proper action was taken under provisions of the Home Rule statute, such allowances could be provided.

Under Home Rule, IC 36-1-3, a town could provide necessary items of uniforms, clothing, arms, and necessary equipment for the performance of duties for the town marshal and his/her deputies. This can only be made after an appropriation is provided and all such items provided remain the permanent property of the town.

### **APPROPRIATIONS OF FEDERAL AND STATE FUNDS**

When funds are provided by the federal government either directly to a city or town or through a state agency for any program or project, the following procedures should be followed:

**Advance Grants.** Advance grants should be handled as follows:

1. Where funds are “advanced” directly to a city or town by the federal government for a specific purpose prior to making any disbursements by the city or town, the money should be placed in a separate project fund and disbursements subsequently made from that fund. No appropriation of the federal funds is required.
2. Where federal funds are “advanced” to a city or town through a state agency or department with no state funds added thereto prior to making any distributions, the money should be placed in a separate project fund and subsequent disbursements made from that fund. No appropriation of the federal funds is required.
3. Where federal funds are “advanced” to a city or town by a state agency or department and state funds are included along with the federal funds in one check or voucher and the funds are for a specific purpose, the money should be placed in a separate project fund and disbursements made from that fund. Appropriation(s) must be obtained for the combined total (i.e., federal and state) prior to any disbursement being made from that project fund.

**Reimbursement Grants.** Reimbursement grants should be handled as follows:

Where a federal or state grant provides for payments to be made directly to a city or town on a “reimbursement” basis after payment of expenses by the city or town, the entire amount of the federal or state reimbursement may be appropriated by the city or town council without using the additional appropriation procedures under IC 6-1.1-18-5, if the funds are provided or designated by the state or the federal government as a reimbursement of expenditures. [IC 6-1-1.1-18-7.5].

No separate fund for the project or program is required unless the terms of the grant require one.

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**Matching Grants.** Matching Grants should be handled as follows:

When a federal grant or program requires expenditures or “matching” funds to be provided from city or town funds, an appropriation must be obtained for the amount of such expenditures or local matching funds. Individual program requirements will dictate whether the appropriation should be obtained within the applicable city or town fund for expenditures there from or whether an appropriation should be obtained within the applicable city or town fund for a transfer to a required separate fund. This matter should be set out in the terms and conditions entered into between the city or town and officials of the federal agency.

**Summary.** To summarize, no appropriations of federal funds are necessary: (1) when advanced directly from the federal government for a specific purpose prior to making disbursements, and the money is placed in a separate project fund with disbursements made from that fund; or (2) when federal funds are received in advance through a state agency for a specific purpose prior to making disbursements and the money is placed in a separate project fund with disbursements made from that fund and there is no state match.

Please keep in mind, if a city or town wishes to obtain an appropriation for all funds to be spent (i.e., federal, state, and local), there is certainly no prohibition in state statutes.

### **DISASTER RELIEF FUNDS – ACCOUNTING AND BUDGETING**

Based upon language contained in IC 10-14-3-17(j)(5) which states that a political subdivision may waive procedures and formalities otherwise required by law pertaining to the appropriation and expenditure of public funds where a national disaster or security emergency has been declared, the following procedures should be followed when disaster relief funds are received.

Money received or expected to be received from the Federal Emergency Management Agency (FEMA), the State Emergency Management Agency, or the State Lottery Commission for tornado, flood, ice storm, or other types of declared disasters should be accounted for in the following manner:

1. If the money is to be used to reimburse funds for expenditures already incurred and paid and the conditions of IC 10-14-3-12 have been met, the amount received may be added back to the appropriation balances from which the expenditures have been previously made.
2. If the money is to be used for future expenditures, a separate fund should be set up entitled “Disaster Relief Fund.” Such fund would not require appropriation or additional appropriation prior to spending the money in the fund.

It is recommended that all related expenditures records (claims, minutes, correspondence, contracts, damage survey report, ect.) be maintained in a separate file for future audits required by State and Federal agencies.

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### **ADVANCE PAYMENTS OF SALARIES PROHIBITED – EXCEPTIONS**

IC 5-7-3-1 states: “(a) Public officers may not draw or receive their salaries in advance. (b) This section does not prohibit a payment under IC 36-4-8-9.”

IC 36-4-8-9 states: “(a) One (1) to three (3) days before the vacation leave period of a city officer or employee begins, the city may pay him the amount of compensation he will earn while he is on vacation leave. (b) Compensation for services paid to a salaried city officer or employee pursuant to a fixed schedule set forth in a written contract or salary ordinance shall not be construed as having been paid in advance. Under such an arrangement, the city shall maintain records to verify that actual work is performed for all salary paid.”

IC 36-5-4-7 states: “One (1) to three (3) days before the vacation leave period of a town officer or employee begins, the town may pay him the amount of compensation he will earn while he is on vacation leave.”

### **CANCELLATION OR REJECTIONS OF BIDS**

IC 5-22-18-2 states that when the purchasing agency determines it is in the best interests of the governmental body:

1. A solicitation may be canceled; or
2. Offers may be rejected;

in whole or in part as specified in the solicitation. IC 5-22-7-2 requires this statement to be included in an invitation for bids.

The reason for a cancellation of a solicitation or rejection of offers must be made part of the contract file.

### **PENALTIES ON UTILITY BILLINGS**

Situations sometimes arise where utility customers are charged penalties on late fees. There has been some question as to whether or not late fees in subsequent billings for those customers should include previously assessed penalties.

IC 36-9-23-31, which requires penalties on late fees for sewage utilities, states, in part: “If fees assessed against real property under this chapter or any statute repealed by IC 19-2-5-30 (repealed September 1, 1981) are not paid within the time fixed by the municipal legislative body, they are delinquent. A penalty of ten percent (10%) of the amount of fees attaches to the delinquent fees.”

We are not aware of provisions in the Indiana Code specifically addressing late fees for water, gas, and electric utilities organized under IC 8-1.5. The amount and manner of charging late fees on such utilities should be set out in the various bond ordinances, rate ordinances, or other ordinances, resolutions or policies adopted by the governing body.

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It is our audit position that the 10% penalty specified in IC 36-9-23-31 should be assessed one time and one time only. Subsequent billings should not include additional assessments on this penalty. Similarly, unless specifically directed by statute, ordinance, or other legal directives, penalties on late fees for water, gas, and electric utilities organized under IC 8-1.5 should be charged only one time. Future late charges should not include additional charges added to the penalties on late fees.

The following is an example of a penalty on late fees calculation. Assume that a sewage utility account is billed \$10 each month, but no payment has been received for the January or February billings:

January bill:	
January usage	<u>\$ 10</u>
February bill:	
February usage	\$ 10
plus 10% late fee on January billing	1
plus outstanding amount not yet paid	<u>10</u>
Total February bill	<u>\$ 21</u>
March bill:	
March usage	\$ 10
plus 10% late fee on February billing	1
plus outstanding amount not yet paid	<u>21</u>
Total March bill	<u>\$ 32</u>

Note: We do not recommend assessing an additional ten percent for the unpaid January bill on the March billing since the 10% penalty has been charged in February.

### DAILY DEPOSITS – PARK AND RECREATION DEPARTMENTS

IC 36-10-3-22 requires a park and recreation department to deposit monies it receives with the city or town fiscal officer at least once each month. However, it is our audit position that this provision would not relieve a park and recreation department from making daily deposits in a city or town depository selected under IC 5-13-6-1 (d) before turning the monies over to the city or town fiscal officer.

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### **RECORD OF HOURS WORKED**

An employee who works for more than one (1) governmental unit should not be paid by more than one governmental unit for the same period of time worked. Such employee should use his/her accumulated leave time from one governmental unit while serving the other governmental unit when there is an overlap in a work schedule. For example, a city police officer, who is also a member of a school board, attends a school board meeting during his/her normal police work shift. The police officer would be expected to use his/her leave time accumulated at the city while attending such meeting. IC 5-11-9-4 requires such officers and employees to maintain records showing which hours were worked each day.

We do not feel that IC 5-11-9-4 requires a full time employee of a city or town, whose job description requires that he/she is to work partially for the street department and partially for the wastewater utility, for example, to keep detailed records of the time worked for each department, unless the city or town required such records from such employee. However, an employee of a city or town who filled two separate positions (deputy clerk-treasurer and part-time janitor, for example) would be required by IC 5-11-9-4 to maintain a record of hours worked.

### **GROUP HEALTH INSURANCE**

A public employer may provide programs of group insurance for its employees and retired employees. The public employer may, however, exclude part-time employees and persons who provide services to the unit under contract from any group insurance coverage that the public employer provides to the employer's full-time employees. A public employer may provide programs of group insurance through either or both of the following methods:

- (1) By purchasing policies of group insurance.
- (2) By establishing self-insurance programs.
- (3) By electing to participate in the local unit group of local units that offer the state employee health plan under IC 5-10-8-6.6. [IC 5-10-8-2.6(b)]

IC 5-10-8-1 defines an employee to mean:

- (A) An elected or appointed officer or official, or full-time employee;
- (B) If the individual is employed by a school corporation, a full-time or part-time employee;
- (C) For a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period;  
or
- (D) A senior judge appointed under IC 33-34-3-7; whose services have continued without interruption at least thirty (30) days.

Similar provisions for group insurance for public safety employees, surviving spouses, and dependents can be found in IC 5-10-8-2.2.

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### **BANDS AND ORCHESTRAS**

Based upon language in IC 36-10-2-2 and IC 36-10-2-4, it is our audit position that cities and towns can make annual appropriations for the purpose of maintaining and employing bands and orchestras to furnish music in public places and parks.

IC 36-10-2-2 states: "A unit may establish, aid, maintain, and operate public parks, playgrounds, and recreation facilities and programs.

IC 36-10-2-4 states: "A unit may establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community restitution or service facilities and programs."

### **OPTICAL IMAGED CHECKS**

IC 5-15-6-3(a) concerning optical imaging of checks states, in part: "...Original records' includes the optical image of a check or deposit document when: (1) the check or deposit document is recorded, copied, or reproduced by an optical imaging process...; and (2) the drawer of the check receives any optical image of the check after the check is processed for payment..."

Furthermore, IC 26-2-8-111 states in part:

- "(a) If a law requires that certain records be retained, that requirement is met by retaining an electronic record of the information in the record that:
- (1) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and
  - (2) Remains accessible for later reference...
- (e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a)."

### **RATES FOR LEGAL ADVERTISING**

The rates for legal advertising did not change for calendar year 2009. IC 5-3-1-4 does not authorize any change in legal rates after December 31, 2005. Therefore, publishers of qualified publications should charge in accordance with the 2005 rates published in the Cities and Towns Bulletin in December 2004, pages 10 through 12.



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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**MEMORANDUM**

**TO:** All Public Printers

**FROM:** Bruce A. Hartman, C.P.A.  
State Examiner

**RE:** Prescribed General Form 99P, Publisher's Claim

**DATE:** February 11, 2009

The enclosed General Form 99P, Publisher's Claim, for use by publishers of qualified newspapers to claim payment from the state and its political subdivisions for legal notices, has been revised. The Publisher's Claim should be completed using the legal rates provided for in Indiana Code as published in State Board of Accounts Bulletins for the appropriate column width and type size used in the legal notice. The claim form must also have proof of publication attached to the claim sent to the government for payment. The proof of publication may be a clipping from the qualified publication or an electronic tear sheet of that legal notice. An electronic tear sheet **MUST** be an exact replica of the legal notice in the newspaper, including being the exact size and type size published.

The Publisher's Claim no longer includes the requirement of a notary public to witness the signature of the claimant certifying the correctness of the claim and attesting to the proof of publication attached to the claim. The legal rate tables are also no longer required to be printed on the back of the General Form 99P.

A sample of General Form 99P is enclosed. It should be printed front to back as shown in the sample on letter size (8 ½" by 11") paper. Publishers may use their remaining stock of General Form 99P before implementing this revision.

TRW/db

Enclosures

ATTACH COPY OF ADVERTISEMENT HERE

.....  
(Governmental Unit)

To.....Dr.

.....County, Indiana

.....

**PUBLISHER'S CLAIM**

**LINE COUNT**

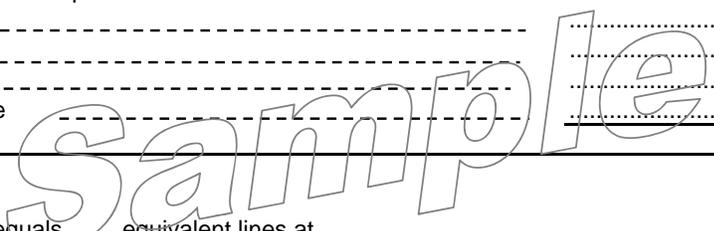
Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines -----

Body -- number of lines -----

Tail -- number of lines -----

Total number of lines in notice -----



**COMPUTATION OF CHARGES**

..... lines, ..... columns wide equals ..... equivalent lines at ..... cents per line ----- \$ .....

Additional charges for notices containing rule or tabular work (50 per cent of above amount) -----

Charge for extra proofs of publication (\$1.00 for each proof in excess of two) -----

**TOTAL AMOUNT OF CLAIM** ----- **\$** .....

**DATA FOR COMPUTING COST**

Width of single column in picas.....

Size of type.....point.

Number of insertions.....

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper ..... times. The dates of publication being as follows:

.....

.....

.....

Date ....., .....

Title.....

See table of legal rates in the applicable State Board of Accounts Bulletin

Claim No. \_\_\_\_\_ Warrant No. \_\_\_\_\_

IN FAVOR OF

\$ \_\_\_\_\_

ON ACCOUNT OF APPROPRIATION FOR

Appropriation No. \_\_\_\_\_

ALLOWED

IN THE SUM OF \$ \_\_\_\_\_

I have examined the within claim and hereby certify as follows:

That it is in proper form.

That it is duly authenticated as required by law.

That it is based upon statutory authority.

That it is apparently  correct  
 incorrect

I certify that the within claim is true and correct; that the services there in itemized and for which charge is made were ordered by me and were necessary to the public business

Sample