

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2015 - PART TWO

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JUNE TRAINING SCHOOL

The State Board of Accounts extends its deepest appreciation to the officers and committees of the Indiana League of Municipal Clerks and Treasurers (League) for making the arrangements and to the Indiana Association of Cities and Towns for handling the registrations at the recent school in Indianapolis. Next year's June School will be held at the Blue Chip Casino in Michigan City as part of the League's Annual Conference during the week of June 5th through June 9th.

Please note that the League's Fall District meetings will again qualify as State-called meeting days. This year's meetings will be in Middlebury on October 15 and Columbus on October 28. Registration information will be sent out by the League for the District meetings.

CHILD RESTRAINT SYSTEM PENALTIES

All Class D infraction collections for violations of the child restraint laws under IC 9-19-11 are to be accounted for separately by each city or town court as child restraint system fees. Such fees are to be remitted by the clerk of a city or town court to the county auditor on a monthly basis.

VOLUNTEER FIRE COMPANIES SERVING MORE THAN ONE UNIT – PRORATION OF INSURANCE

If any volunteer fire company serves more than one (1) unit under a contract or agreement, each unit that the company serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire company, divide the population of the area by the number of volunteer fire companies serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire company.

STEP FOUR: Divide the STEP TWO amount for a unit by the STEP THREE amount and round the quotient to the nearest one thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the volunteer fire company by the quotient determined under STEP FOUR, rounded to the nearest dollar. (IC 36-8-12-6)

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 Indiana Department of Homeland Security, 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 expenditure records (claims, minutes, correspondence, contracts, damage survey report, etc.) be maintained in a separate file for future audits required by State and Federal agencies.

HANDLING LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEES

1. Each court is to assess a \$4 law enforcement continuing education program fee on each action in which a defendant is found to have:
 - A. committed a crime;
 - B. violated a statute defining an infraction; or
 - C. violated an ordinance of a municipal corporation. (IC 33-37-5-8(c))
2. Monthly, a county, city, or town court clerk is to transmit the law enforcement continuing education fees collected to the county, city, or town fiscal officer. (IC 33-37-4-1, IC 33-37-4-2, IC 33-37-4-3)
3. The fiscal officer shall deposit the fees into either the County User Fee Fund or the City or Town User Fee Fund. (IC 33-37-4-1, IC 33-37-4-2, IC 33-37-4-3)
4. A law enforcement agency may receive funds from a County User Fee Fund or a City or Town User Fee Fund or a City or Town User Fee Fund by filing a claim with the county, city, or town fiscal officer. The claim shall include a "verified statement" of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency. Payment of the claimed amount from a County User Fee Fund or a City or Town User Fee Fund may be made without appropriation.
5. Claims should be filed monthly, quarterly, or semiannually.
6. On receipt of the amount claimed by the law enforcement agency, the city or town fiscal officer shall place the amount received into the Local Law Enforcement Continuing Education Fund. (IC 5-2-8-2)
7. Funds received by a law enforcement agency shall be used for the continuing education and training of law enforcement officers employed by the agency and for equipment and supplies for law enforcement purpose. (IC 5-2-8-6)
8. Amounts claimed for expenditures for the Local Law Enforcement Continuing Education Fund must have been appropriated prior to expenditure either through the normal budget process or by additional appropriation. (IC 33-37-8-4)
9. Any funds remaining in the Local Law Enforcement Continuing Education Fund at year end do not revert.

LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEES – FILING VERIFIED STATEMENTS OF CAUSE NUMBERS

Since the statutes (IC 5-2-8, IC 33-37-8) are silent regarding by whom or in what manner the “verified statement of cause numbers” will be prepared, the State Board of Accounts has adopted the following suggested procedures to handle such filings:

1. The applicable law enforcement agency should prepare the claim. At a minimum, the claim should indicate each fee collected by the date of payment, cause number, defendant name, and receipt number if available.
2. The claim should be filed by the law enforcement agency with the fiscal officer of the governmental unit.
3. The fiscal officer shall transmit the claim to the court clerk in order for the claim to be verified.
4. Once the court clerk verifies the fees claimed on the claim, the claim shall be transferred back to the fiscal officer for processing in the same manner as all other claims, i.e. submitted for board’s approval and subsequent payment.
5. An alternative to steps number 3 and number 4 has been approved for some units. In this instance when the court clerk transmits the amount collected for law enforcement continuing education fees to the fiscal officer, the court clerk includes a listing of the fees transmitted by the date of payment, cause number, defendant name and the law enforcement agency to which the fees are attributable. By doing this, the fiscal officer is able to verify the fees claimed by the various law enforcement agencies and is not required to go back to the court clerk.

It would also be permissible for the law enforcement agency to attach a copy of such listing that is provided by the court to a claim once the law enforcement agency verified accuracy of the data contained in the listing.

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 6-1.1-18-7.5)

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

DONATIONS TO FOUNDATIONS

Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, a trust, or gaming revenue to a foundation under the following conditions:

- (1) The foundation is a charitable nonprofit community foundation.
- (2) The foundation retains all rights to the donation, including investment powers.
- (3) The foundation agrees to do the following:
 - (A) hold the donation as a permanent endowment.
 - (B) distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.
 - (C) return the donation to the general fund of the unit if the foundation:
 - (i) loses the foundation's status as a public charitable organization;
 - (ii) is liquidated; or
 - (iii) violates any condition of the endowment set by the fiscal body of the unit.

A unit may use income received from a community foundation only for purposes of the unit. (IC 36-1-14)

IC 36-1-2-23 defines a unit to mean a county, city or town, or township.

Gaming revenue means revenue received under IC 4-33-12-6, IC 4-33-13, IC 4-35-8.5, or an agreement to share a city's or county's part of the revenue.

COURT FEE CHANGES

Memos regarding changes to some court fees were sent to all City and Town Courts; one in late May and another in June. This information may also be useful for any cities and towns with court designated traffic violations bureaus.

The following changes will be effective July 1, 2015:

1. DOCUMENT STORAGE FEE – Public Law 213, House Enrolled Act 1001, changes the document storage fee from \$2 to \$5 from July 1, 2015 to June 30, 2017. On July 1, 2017, the fee changes back to \$2. The fee continues to be remitted to the city or town fiscal officer on a monthly basis for deposit in the clerk’s record perpetuation fund.
2. AUTOMATED RECORDKEEPING FEE – Public Law 213, House Enrolled Act 1001, changes the automated recordkeeping fee from \$7 to \$19 from July 1, 2015 to June 30, 2017 for all actions except those resulting in pretrial diversion or deferral, for which the fee remains \$5. On July 1, 2017, the fee for all violations will be \$5. This fee continues to be remitted to the Auditor of State semiannually.
3. TRANSCRIPT OR COPY OF ANY RECORD - Public Law 191 House Enrolled Act 1371 amends Indiana Code 33-37-5-2(a) regarding what shall be deposited in the clerk’s record perpetuation fund by adding the following:

“(6) Fees for preparing a transcript or copy of any record under section 1 of this chapter.”

Section 1 of the chapter (IC 33-37-5-1) establishes a fee for preparing a transcript or copy of any record of \$1.00 per legal size or letter size page. This fee shall now be deposited into the clerk’s record perpetuation fund.

QUESTIONS FROM THE JUNE 2015 CITIES AND TOWNS TRAINING SCHOOL

Question No. 1: It was my understanding that my clerk-treasurer's bond had to be a percentage of my budget. Do I just need to have \$30,000 instead?

Answer No. 1: Currently, IC 5-4-1-18(c) provides for the amount of bond coverage required for a clerk-treasurer's bond. It is not based on a budget amount, but rather on the amount of receipts during the last complete year before the purchase of the bond. On January 1, 2016, the code reference above becomes IC 5-4-1-18(d) due to additions in Public Law 230 - Senate Enrolled Act 393

Question No. 2: We have a third party that processes our Park Department's credit card transactions. When a refund needs to be issued to a customer, does it need to be done by a voucher with a check issued or can the third party credit the customer's card? We have always issued a voucher and check for these refunds. Our new Park Director is challenging this method.

Answer No. 2: Disbursements, other than properly authorized petty cash disbursements, shall be by check or warrant, not by cash or other methods unless specifically authorized by statute, federal or state rule. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns. Chapter 7)

Question No. 3: We receive several police grants such as Operation Pullover, DUI, etc. I have established a separate fund, and have the officers maintain separate time sheets to account for the time they spend on the grant paid activities. I have been doing this for several years. Now the Council believes I should be including their time on their regular time sheets, making it subject to overtime pay and related benefits.

Answer No. 3: Please see the Cities and Towns Bulletins and Uniform Compliance Guidelines, March 2012 for an article entitled "Operation Pullover, DUI Task Force, and Big City/Big County Grants." Separate time sheets to track the hours worked on police grant activities would be allowable. A separate fund can be established for the grant fund receipt and disbursement activities. The total compensation received by the officers should not exceed what is provided for in the salary ordinance.

If there are questions concerning the funding and allowable expenditure purposes for these grants, it is suggested you call the Division of Traffic Safety, Indiana Criminal Justice Institute, at (317) 232-1295. Questions concerning the number of hours worked and how they apply to overtime provisions and laws should be directed to the Indiana Department of Labor at (317) 232-2655.

Question No. 4: I am aware of the law that allow TIF Allocation to be used to maintain a building built with TIF Allocation, but is mowing the lawn around that building considered maintenance so TIF dollars can be used?

Answer No. 4: It is our audit position that the statutes regarding redevelopment commissions and TIF allocations do not permit the use of TIF allocation monies for mowing the lawn on a property redeveloped with TIF funds. Mowing expenses are ongoing maintenance expenses of the redeveloped property.

Question No. 5: On our fixed asset policy, our threshold for all categories is \$5,000 except for infrastructure is \$500,000. Is this set too high?

Answer No. 5: The governing body should establish a capitalization policy that sets a dollar amount as a threshold to be used in determining which items will be recorded. The threshold is up to the discretion of the governing body. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Additionally, keep in mind Federal regulations require assets acquired with Federal dollars be individually recorded and tracked if the asset value exceeds \$5,000 (regardless of the local threshold set).

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Question No. 6: We also do not have a category for "Improvements Other Than Buildings." Do we need this category?

Answer No. 6: Yes. The capital asset categories include: Land, Infrastructure, Buildings, Improvement Other Than Buildings, Equipment, and Construction in Progress. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Question No. 7: Where is the law that states you can't pay for items/services in advance?

Answer No. 7: IC 5-11-10-1.6(c) lists the things that must be present in order for a check to be issued for payment of a claim. Within this statute, item #2 is "the invoice or bill is approved by the officer or person receiving the goods and services." Our audit position is such a certification cannot be made if the goods or services have yet to be received (as in paying in advance).

IC 5-11-10-2 also states a claim must be approved by the officer or person receiving the goods or services.

IC 36-4-8-14 and IC 36-5-4-12 permit a city or town council to adopt an ordinance allowing the city or town fiscal officer to pay certain types of claims prior to board allowance. The certain types of claims are described in the code citations referenced.

Also, the Accounting and Uniform Compliance Guidelines Manual states in Chapter 7: "Compensation and any other payments for goods and services should not be paid in advance of receipt of the goods or services unless specifically authorized by statute. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee."

Question No. 8: A former Clerk-Treasurer, who is a Council member would like to work part-time in the Clerk-Treasurer's office, when the Clerk-Treasurer and her deputy are at called meetings. Can the Council member work in the Clerk-Treasurer's office and be compensated, or would it have to be voluntary?

Answer No. 8: A Council member would be prohibited from working as an employee, part-time or otherwise, in the Clerk-Treasurer's office. Our audit position is IC 3-5-9 would prohibit this.

Question No. 9: Our current municipal code provides a great list of expenses that may be paid in advance of allowance by the board of jurisdiction. It further provides that any governing body is covered but may act to reduce or eliminate its application to them. Shall we now have the Redevelopment Commission act to adopt its own advance allowance resolution or rule?

Answer No. 9: Yes, we would expect your Redevelopment Commission to adopt its own rule or resolution when Senate Enrolled Act (SEA) 567 becomes effective on January 1, 2016. SEA 567 provides that a Redevelopment Commission may, by rule or resolution, specify the types of disbursements that a fiscal officer (clerk-treasurer or city controller) may make in advance of the Commission's approval at its next regular meeting.

QUESTIONS FROM THE JUNE 2015 CITIES AND TOWNS TRAINING SCHOOL

Question No. 10: Will you please provide any changes or new court user fees, particularly those that change related to judicial salaries?

Answer No. 10: We are not aware of any changes effecting judicial salaries. House Enrolled Act 1001 (the Budget Bill) Section 260 did make some minor changes to IC 33-37-7-8, but none effected IC 33-37-7-8(i) concerning judicial salaries.

Question No. 11: Will you kindly please provide any relevant memoranda you make available to court clerks to those who do not have courts but have been designated Traffic Violations Bureaus by a court?

Answer No. 11: Those changes to some court fees are included elsewhere in this edition of the Cities and Towns Bulletins.

Question No. 12: Will Gateway include any required disclosures for INPRS or other retirement plans via completing questions on Gateway?

Answer No. 12: No. The disclosures required for INPRS will not be part of Gateway. Currently, you answer questions in Gateway related to your city or town's participation in certain plans administered by INPRS for disclosure in your financial statement notes and schedules.

Question No. 13: There is an employee who works for a Sanitary District in a city and is also a City Councilwoman and they claim this person is exempt because they have separate Tax IDs. Is this true?

Answer No. 13: The actual question submitted included the name of the City involved, which we have omitted for the purposes of this discussion. The records we have for this unit indicate the Sanitary District and City use the same Tax ID for federal reporting purposes. The Sanitary District is also reported on the financial statement as a department of the City. In this example, therefore, it's our position the councilwoman involved would be subject to IC 3-5-9-5.

If the person in question assumed the office of council member after January 1, 2013, we would consider her to have resigned her employment with the Sanitary District. However, if she was already a council member on January 1, 2013, she could continue to serve as both council member and Sanitary District employee until the end of the term of the council position she held (IC 3-5-9-7). At the end of the elected position's term, our position is she would then be subject to the provisions of IC 3-5-9-5.

General Questions/Information:

An issue that was questioned during the conference had to do with Rainy Day funds; what monies could and could not be transferred to Rainy Day, what constituted a dedicated fund, etc. The State Board of Accounts and Department of Local Government Finance will be working together to formulate a more clear understanding of IC 36-1-8-5 and IC 36-1-8-5.1 and the result of this work will be distributed in a future Cities and Towns Bulletin.

Another issue dealt with persons who are not attorneys declaring their candidacy for City/Town Judge. We have reached out to the Election Division of the Indiana Secretary of State's office for guidance and are working on clarifications. Please look for future information in a separate memo and/or the September Cities and Towns Bulletin.