

# **CITIES AND TOWNS BULLETIN**

**AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS**

**MARCH 2016**

**PAGE 1**

## **JUNE TRAINING SCHOOL**

This year's June Training School will be held in Michigan City as part of the Indiana League of Municipal Clerks and Treasurers' Annual Conference during the week of June 5 through June 10, 2016. The Conference and School will be held at the Blue Chip Hotel & Casino.

The State Board of Accounts will be conducting two (2) days of training (June 7 and 8) 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 sent prior to the meeting.

## **NEW STATE MILEAGE RATE**

The State reduced the mileage reimbursement rate from \$0.40 to \$0.36 per mile effective February 22, 2016. This will impact those units that utilize the State rate in their policy for mileage reimbursement and will impact those mileage reimbursements for meetings where the statute calls for the State rate to be used.

## **APPROVED DEPOSITORY LIST**

The Indiana Board for Depositories' website contains the most recent listing of approved depositories. The list can be accessed at [www.in.gov/tos/deposit/](http://www.in.gov/tos/deposit/).

### NEPOTISM AND CONTRACTING WITH A UNIT

Starting in July 2012, statutes regarding nepotism and contracting with relatives went into effect. Some confusion still exists surrounding the differences between ICs 36-1-20.2 (Nepotism) and 36-1-21 (Contracting with a Unit). While they are somewhat similar in that they deal with relationships involving family members in certain situations, they both consist of different circumstances and requirements.

#### **Nepotism**

IC 36-1-20.2 on nepotism involves employing persons who are related to one another with one of those people being in the direct line of supervision of the other. IC 36-1-20.2-8 defines "relative" as a spouse; parent or stepparent; child or stepchild; brother, sister, half-brother, half-sister, stepbrother or stepsister; niece or nephew; aunt or uncle; and daughter-in-law or son-in-law. Adoptive children are considered the same as a natural child.

IC 36-1-20.2-4(a) states a person is in the "direct line of supervision" of an elected officer or employee

"if the elected officer or employee is in a position to affect the terms and conditions of the individual's employment, including making decisions about work assignments, compensation, grievances, advancement, or performance evaluation."

The legislative body is required to adopt a policy on nepotism as per IC 36-1-20.2-9(a). The policy adopted can be more restrictive than the requirements set forth in IC 36-1-20.2. This adopted policy is to be uploaded in Gateway at the time the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100-R) is electronically submitted.

Each elected officer of a city or town is to annually certify in writing that they have not violated IC 36-1-20.2 (see IC 36-1-20.2-16). Such certification shall be done not later than December 31<sup>st</sup>. This certification should not to be confused with the policy referred to in the preceding paragraph. The elected official's certification is maintained locally and should not be uploaded into Gateway – only the nepotism policy should be uploaded in Gateway.

If the State Board of Accounts finds that a city or town has not implemented a nepotism policy, such information shall be forwarded to the Department of Local Government Finance, who may not approve a city or town's budget or additional appropriations for the ensuing calendar year (ICs 36-1-20.2-17 and 36-1-20.2-18).

#### **Contracting with a Unit**

IC 36-1-21 permits entering into a contract with a person who is a relative of an elected official or a business that is wholly or partially owned by a relative of an elected official in certain situations. IC 36-1-21-5(a) states a city or town may

"enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with: (1) an individual who is a relative of an elected official; or (2) a business entity that is wholly or partially owned by a relative of an elected official; only if the requirements of this section are satisfied and the elected official does not violate IC 35-44.1-1-4."

(emphasis added; IC 35-44.1-1-4 is the conflict of interest statute)

**NEPOTISM AND CONTRACTING WITH A UNIT - Continued**

IC 36-1-21-2 defines an elected official as the executive or a member of the executive body of the unit, a member of the legislative body of the unit, and a member of the fiscal body of the unit. IC 36-1-21-3 defines relatives as a spouse; parent or stepparent; child or stepchild; brother, sister, half-brother, half-sister, stepbrother or stepsister; niece or nephew; aunt or uncle; and daughter-in-law or son-in-law. Adoptive children are considered the same as a natural child.

The legislative body is required to adopt a policy on contracting with a unit per IC 36-1-21-4. The policy adopted can be more restrictive than the requirements set forth in Indiana 36-1-21. The adopted policy is to be uploaded in Gateway at the time the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100-R) is electronically submitted.

Each elected officer of a city or town is to annually certify in writing that they have complied with IC 36-1-21 (see IC 36-1-21-6). Such certification shall be done not later than December 31<sup>st</sup>. This certification is not to be confused with the policy referred to in the preceding paragraph. The elected official's certification is maintained locally and should not be uploaded into Gateway.

We see a lot of cities and towns upload the incorrect documents in Gateway concerning contracting with a unit when completing their Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100-R). Some units have uploaded actual contracts with vendors, others have uploaded the annual certifications discussed in the preceding paragraph, and others have uploaded documents seemingly unrelated to contracts at all. For completing the 100-R, only the adopted policy (required by IC 36-1-21-4) should be uploaded in Gateway.

If the State Board of Accounts finds that a city or town has not implemented a contracting with a unit policy, such information shall be forwarded to the Department of Local Government Finance, who may not approve a city or town's budget or additional appropriations for the ensuing calendar year (ICs 36-1-21-7 and 36-1-21-8).

**INTERNAL CONTROL TIMELINE**

IC 5-11-1-27 requires all Indiana political subdivisions to adopt the minimum level of internal control standards developed by the state board of accounts as published in the *Uniform Internal Control Standards for Indiana Political Subdivisions*. Each political subdivision must adopt these standards, train appropriate personnel, and implement policies and procedures consistent with the standards. The following is a guide to fulfilling these requirements and deadlines for action.

**Statutory Requirements - *Uniform Internal Control Standards for Indiana Political Subdivisions* (Statutory Deadline: After June 30, 2016)**

**INTERNAL CONTROL TIMELINE - Continued****Legislative Body – Uniform Internal Control Standards**

1. **Adopt Standards.** The legislative body shall ensure that the *Uniform Internal Control Standards for Indiana Political Subdivisions* are adopted. We recommend adoption by ordinance or resolution.

The *Uniform Internal Control Standards for Indiana Political Subdivisions* are available on our website at [www.in.gov/sboa](http://www.in.gov/sboa).

2. **Train Personnel.** The legislative body shall ensure that personnel, as defined in statute, receive training concerning the *Uniform Internal Control Standards for Indiana Political Subdivisions*.

Approved training materials are located in Part Two of the *Uniform Internal Control Standards for Indiana Political Subdivisions*; the Video Presentation materials in Section One accompany the Internal Control Webinar located on our website at [www.in.gov/sboa](http://www.in.gov/sboa).

Training by each employee should be documented on the Internal Control Training Certification Form located in the Appendix to the *Uniform Internal Control Standards for Indiana Political Subdivisions*. Retain this documentation for audit.

Please note that training is an ongoing process as new employees are hired.

**Fiscal Officer – Uniform Internal Control Standards**

1. **Certify Adoption of Standards.** The fiscal officer shall certify in writing that the *Uniform Internal Control Standards for Indiana Political Subdivisions* have been adopted.
2. **Certify Training of Personnel.** The fiscal officer shall certify in writing that the personnel, as defined in statute, have received the required training.
3. **Submit Two Certifications with Annual Financial Report in 2017.** Both the Adoption of Standards Certification and the Training of Personnel Certification shall be filed electronically with the state board of accounts at the same time as the annual financial report is filed.

**INTERNAL CONTROL TIMELINE - Continued****Ongoing Requirements – Implementation of Internal Control Policies and Procedures Management – Responsibility to Implement Internal Control Policies and Procedures**

The term “management” is defined for each unit of government in the Introduction section of the *Uniform Internal Control Standards for Indiana Political Subdivisions*.

After June 30, 2016, management should document in writing the specific internal control policies and procedures required for use in each department of the unit. Examples of such policies and procedures are contained in Part Two Section 2 of the *Uniform Internal Control Standards for Indiana Political Subdivisions*.

The implementation of internal control policies and procedures is an ongoing process. We recommend that management start by documenting procedures already in place and evaluating those policies and procedures in light of the five components of internal control. If any of the five components is missing, true internal control is not achieved. An effective implementation of Internal Control is a process and requires regular evaluation and adaptation for changes affecting your office. Over time controls may be added, deleted, or adjusted as necessary.

**FILING AND DOCKETING CLAIMS**

IC 5-11-10-2 states in part:

“(a) Claims against a political subdivision of the state must be approved by the officer or person receiving the goods or services, be audited for correctness and approved by the disbursing officer of the political subdivision, and, where applicable, be allowed by the governing body having jurisdiction over allowance of such claims before they are paid. If the claim is against a governmental entity as defined in section 1.6 [IC 5-11-10-1.6] of this chapter, the claim must be certified by the fiscal officer.

(b) The state board of accounts shall prescribe a form which will permit claims from two (2) or more claimants to be listed on a single document and, when such list is signed by members of the governing body showing the claims and amounts allowed each claimant and the total claimed and allowed as listed on such document, it shall not be necessary for the members to sign each claim.

(c) Applies to solid waste management districts.

(d) The form prescribed under this section shall be prepared by or filed with the disbursing officer of the political subdivision together with... the supporting invoices or bills...

(e) Where under any law it is provided that each claim be allowed over the signatures of members of a governing body, or a claim docket or accounts payable voucher register be prepared listing claims to be considered for allowance, the form and procedure prescribed in this section shall be in lieu of the provisions of the other law.”

**FILING AND DOCKETING CLAIMS – Continued**

The State Board of Accounts has prescribed General Form No. 364, Accounts Payable Voucher Register, which shall be prepared by, or filed with, the disbursing officer of the city or town, together with the supporting accounts payable voucher, and all such documents shall be carefully preserved by the disbursing officer as a part of the official records of the office.

IC 36-4-8-5(a)(2) applies to cities and IC 36-5-4-4(a)(2) applies to towns. Both statutes require claims to be filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting of the applicable approving body. However, if the city or town council has passed an ordinance to allow certain claims to be paid by the fiscal officer between board meetings in accordance with IC 36-4-8-14 (cities) or IC 36-5-4-12 (towns), then the five (5) day requirement does not apply for those particular types of claims.

If members of the governing body would rather approve and sign each individual accounts payable voucher in lieu of signing the Allowance of Vouchers section of General Form 364, this procedure is acceptable.

IC 5-11-10-1.6 states in part:

“(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity’s fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity’s legislative body or the board or official having jurisdiction over allowance of payment of the claim....

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

- (1) processed in accordance with this section; and
- (2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.”

City and town fiscal officers have the option of certifying either on each Accounts Payable Voucher or by signing the certification section of the Accounts Payable Voucher Register.

**\$5.00 DELINQUENT SEWER SERVICE CHARGE**

A \$5.00 service fee is to be added by the proper City or Town official to each delinquent fee, penalty, and recording fee and is included in the total amount of the lien to be recorded in the County Recorder's office. The statute pertaining to this particular subject is found in IC 36-9-23-33(d).

After any delinquent fees, penalties, recording fees and service fees have been certified to the County Auditor for placing the charges upon the tax duplicate for collection, the city or town shall not collect these charges but they will be collected only by the County Treasurer.

**CLAIMS FOR PAYMENTS TO STATE AND FEDERAL AGENCIES**

The State Board of Accounts' audit position is that when statutory payments are due to state or federal agencies, there is no requirement for the state or federal agency to file an invoice or claim for such payments. This audit position would include payments for social security obligations, public employees' retirement fund contributions, federal, state, or county taxes withheld, sales tax, utility receipts tax, and other such amounts due state or federal agencies.

The disbursing officer should prepare an accounts payable voucher and attach any copies of payroll deduction reports, federal or state invoices, communications, etc., to document the payment. The accounts payable voucher will provide a posting media indicating to whom paid, fund on which drawn, accounts to be charged, and the approval by the proper boards.

**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.

### **TRAVEL EXPENSE - Continued**

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.

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 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 certain 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.



**1925 POLICE PENSION FUND – OFFICIAL BOND REQUIREMENTS**

The pension secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of his duties [IC 36-8-6-3(d)]. IC 5-4-1-18 states that the fiscal body of the unit shall fix the amount of the bond.

**WORKER'S COMPENSATION INSURANCE**

Under IC 22-3-6-1 it is permissible to cover the officers of a municipal corporation in the contract of insurance. The following is quoted from that statute:

“...An executive officer of a municipal corporation or other governmental subdivision....may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6...”

In view of the foregoing provisions, it is the position of the State Board of Accounts that worker's compensation premiums based on salaries of officials and deputies could be included in the payroll audits, provided such officials and deputies are specifically included in the terms of the insurance policy. Where not so included, however, we question payment of such premiums since the city or town is expending funds for this protection without the insurance company having any liability therefore under the terms of the policy.

We suggest, before making payment of any premiums for worker's compensation insurance involving the payrolls of officials and deputies, that you check the insurance policy closely to see that the officials and deputies are specifically included under its terms.

**ADDITIONAL COMPENSATION FOR CITY ATTORNEY**

The city attorney may be compensated by the utility or function for services other than governmental in any amount fixed in accordance with IC 36-4-7-4.

This additional compensation would be in addition to the city attorney salary which is paid from budgeted funds and may be fixed or increased at any time to compensate for services rendered in connection with a revenue bond issue, providing such compensation is fixed by the governing board of the utility and is approved by the mayor and the common council.

If the official records of the utility or function do not show the award of this additional compensation and the official records of the civil city do not show approval of the mayor and common council, either by ordinance or resolution as the statutes regulating the utility might provide, then there is no authority to make any payment.

It is also our audit position that litigation services will not fall within the normal duties of a City Attorney and the City Attorney could receive additional compensation if such services were provided to the City.

**MUNICIPAL UTILITIES – CLERK-TREASURER’S DUTIES**

IC 8-1.5-3-4 requires the board over a municipally-owned water, gas or electric utility to deposit all money collected with the municipality’s fiscal officer and to make monthly reports to the fiscal officer of the receipts and disbursement of money belonging to each utility.

This section, as well as the language contained in IC 36-9-23 for wastewater utilities, does not appear to require a clerk-treasurer to perform any duties other than to maintain a bank account for each utility and to sign utility warrants. It is our audit position that the board over the utilities decides which person is responsible for utility billing and collection. Such person may be the clerk-treasurer or someone else.

**QUESTIONS FROM THE JANUARY 2016 NEWLY ELECTED OFFICIAL TRAINING**

1. Does a new councilmember who also serves as a police reserve officer need to file a conflict of interest statement?

The conflict of interest statute is IC 35-44.1-1-4. We recommend consultation with the unit attorney or a private attorney for all conflict of interest questions.

2. If a bank only offers a CD of copies of checks, is that okay? If so, should we print them or can we keep the CD on hand?

We will not take audit exception to the storage of check images on the CD provided from the bank as long as the information is accessible.

3. Could you give some examples of why you would use Home Rule?

An ordinance establishing a schedule of fines for parking violations is an example of a Home Rule ordinance.

4. For stormwater grant matching funds, can any non-enterprise funds be used to supplement available funds such as EDIT, CCD, CCI, Rainy Day, or Riverboat funds if the purpose of those funds has been designated as any legal, governmental purpose?

We would not take exception to the use of EDIT, CCD, CCI, Rainy Day, or Riverboat funds as storm water grant matching funds as long as the purpose is for any lawful purpose of the city or town.

**QUESTIONS FROM THE JANUARY 2016 NEWLY ELECTED OFFICIAL TRAINING**  
**Continued**

5. Should there be a record of council members and appointed board members on the 99A Form?

Council members and appointed board members are not required to be shown on the Form 99A.

6. If audits are once every four years, do all years have to be readily accessible?

Yes, all unaudited records must be accessible and available for audit.

7. What are “serial meetings” pertaining to an Open Door Policy?

According to the Handbook on Indiana’s Public Access Laws by the Office of the Public Access Counselor, the term “serial meeting” is defined as a series of small meetings held by a governing body in an attempt to avoid the requirements of the Open Door Law. The General Assembly amended the Open Door Law in 2007 to prohibit serial meetings. For more information, the referenced Handbook is available at [www.in.gov/pac](http://www.in.gov/pac) under Useful Links.

8. Can a council member authorize a credit card to an employee after the Clerk-Treasurer has stopped all cards due to missing cards?

The power to establish credit card policy rests with the entire Council. Therefore, it is our audit position that one member may not make a unilateral decision to authorize credit card usage by an employee. Please see Page 51-4 of the Cities and Towns Manual for an example policy on credit card procedures.



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS  
302 WEST WASHINGTON STREET  
ROOM E418  
INDIANAPOLIS, INDIANA 46204-2765  
Telephone: (317) 232-2513  
Fax: (317) 232-4711

January 7, 2016

**Memo on Considerations for Materiality Policies**

To aid in the creation and implementation of a materiality policy as discussed in State Examiner Directive 2015-6, the State Board of Accounts assembled the following suggestions that each political subdivision should consider.

Each political subdivision is the best determiner of the qualitative and quantitative factors unique to the unit in arriving at materiality. For example, a \$500 variance in a large city is not necessarily as concerning as a \$500 variance in a small township. On the other hand, a \$50 variance in a large city that happens on a regular and consistent basis may be material. Thus, each materiality policy should include the following:

1. Designation of a person (or position) to whom all irregular variances, losses, shortages, and thefts are reported. Multiple individuals may be designated if each individual follows the overall materiality policy. For example, a county clerk, county treasurer, and county auditor could be designated for occurrences within their respective offices, as long as the county-wide policy is followed by each designee.
2. Establishment of two dollar thresholds at which point the designated person will report the incident to the State Board of Accounts. The thresholds should be for (1) incidents involving cash and (2) incidents involving all other (non-cash) assets. Incidents involving cash will likely have a lower dollar threshold.
3. Creation of an outline of steps that will be taken upon receipt of such a report. Such steps may include:
  - a. logging-in all reports into a spreadsheet that is permanently maintained by the political subdivision;
  - b. confirming the dollar amount of the variance, loss, shortage, or theft;
  - c. evaluating the report against the established dollar thresholds, and sending a letter to the SBOA when the report exceeds the threshold;
  - d. investigating the cause of any variance, loss, shortage, or theft;
  - e. implementing corrective actions or internal control procedures to correct the cause(s) of the variance, loss, shortage, or theft; and
  - f. maintaining copies of relevant documentation, resolution of incidents, and any report to the State Board of Accounts in a centralized data folder.
4. Acknowledgment of Ind. Code § 5-11-1-27(l), which requires public officials who have actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds to immediately send written notice of the misappropriation to the State Board of Accounts and the prosecuting attorney.

As a reminder, if a political subdivision does not develop a policy on materiality, then the threshold is \$0.00 and the political subdivision must report *all* irregular variances, losses, shortages, and thefts to the State Board of Accounts.

Debbie Gibson

Director of Local Audit Services