

STATE OF UTAH
LEGAL COMPLIANCE AUDIT GUIDE
Last Update 6/1/2011

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For information about the Legal Compliance Audit Guide click here to read the [Introduction](#).

General Compliance

State Office of Education (SOE)

Department of Community & Culture (DCC)

Department of Environmental Quality (DEQ)

Department of Health (DOH)

Department of Natural Resources (DNR)

Department of Human Services (DHS)

Department of Transportation (DOT)

Appendix A: Illustrative Examples of Independent Auditor's Report on State Legal Compliance

Appendix B: Single Audit Issues

Appendix C: Miscellaneous

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APPLICATION:

This *Compliance Audit Guide* does not apply to state departments or agencies. This guidance applies to audits of counties, cities, towns, school districts, charter schools, other local governments, and all nonprofit organizations that receive at least 50% of their funds from federal, state, or local government entities.

Compliance audits and attestation engagements usually are performed in conjunction with a financial statement audit. Accordingly, Statement on Auditing Standards No. 117, *Compliance Audits*, effective for compliance audits for fiscal periods ending on or after June 15, 2010, is applicable when an auditor performs a compliance audit in accordance with 1) generally accepted auditing standards, 2) the standards for financial audits under *Government Auditing Standards*, and 3) this *Compliance Audit Guide*. When an auditor is engaged to perform agreed-upon procedures to assist users in evaluating an entity's compliance with specified requirements (as required by Appendix C-5 and Appendix C-6 of this *Compliance Audit Guide*), Statement on Standards for Attestation Engagements No. 10, *Compliance Attestation*, applies.

In prior years, the State Legislature has amended the audit requirements in *Utah Code 51-2a*. These amendments added several new requirements to those previously in the law. See also *Utah Administrative Code Rule R123-5*, "Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations"; a copy is reproduced as Appendix C-4 in this *Compliance Audit Guide*.

First, the law requires the filing of financial reports with the Office of the Utah State Auditor by all nonprofit organizations that received at least 50% of their funds from federal, state, or local government entities, as a condition for receiving such aid. Nonprofit organizations are not required to report on general state requirements and nonmajor state grants. Many charter schools have also been established as nonprofit organizations. However charter schools are also considered public schools and certain general state requirements apply. For example, the principles of the following general state requirements are pertinent to a charter school depending on how the charter school was created, or how the charter school is operated and managed: cash management, purchasing, budgetary compliance, Utah Retirement System compliance, and other applicable state laws and rules. When general state compliance requirements apply, the state legal compliance report for a charter school should be similar to the one issued for a school district.

Second, the law requires the Office of the Utah State Auditor to establish guidelines, qualifications criteria, and audit procurement procedures for all entities that file financial reports.

Finally, the law requires that three additional documents be filed with each audit report: 1) a statement by the auditor expressing an opinion on compliance with state fiscal laws identified by the Office of the Utah State Auditor; 2) a copy of the auditor's letter to management or reports that identifies any material weakness or significant deficiency in internal control discovered by the auditor and other financial issues related to the expenditure of funds received from federal, state, or local governments; and 3) management's response to the specific recommendations.

This *Compliance Audit Guide* provides the compliance requirements for most state funds distributed to local governments and nonprofit organizations. However, the compliance features of some state programs are contract specific. For those programs, the governmental unit should comply with the requirements specified in the contract. Therefore, the independent auditor should refer to the contract for the compliance requirements to be tested.

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In some instances, suggested audit procedures have been provided. Suggested audit procedures are not the only procedures an auditor can use, nor are they mandatory procedures. Auditors should apply professional judgement to test compliance with the requirements.

This introductory section addresses the basic compliance audit requirements for local governments and those nonprofit organizations required to file their financial statements with the Office of the Utah State Auditor. It also discusses state matching funds for federal grants, performing risk assessment procedures and tests of controls, reporting on state legal compliance, and reporting instances of noncompliance. The first section of this *Compliance Audit Guide* provides general compliance requirements with which all governmental entities must comply. Following that section are the specific compliance requirements for major state funds received by local governments and nonprofit organizations. Appendices provide report illustrations, flowcharts, tables, and other guidance.

BASIC COMPLIANCE AUDIT REQUIREMENTS:

As stated previously, any nonprofit organization that receives 50% or more of its funds from federal, state, or local governmental entities must file its audited financial report with the Office of the Utah State Auditor. These nonprofit organizations are subject to all of the requirements included in this *Compliance Audit Guide* unless specifically exempted (as in general compliance requirements.)

However, nonprofit organizations that receive less than 50% of their funds from federal, state, or local governmental entities are not subject to any of the requirements of this *Compliance Audit Guide*. Testwork and reporting are not required even if major grants have been received by these entities. (However, the grant may be subject to audit requirements if agreed to in the contract with the state department awarding the funds.)

Nonprofit organizations, which are required to file their financial reports with the Office of the Utah State Auditor because they have received federal and/or local funds but have not received any state funds, are not required to include a state compliance report in the audit report.

All audits of local governments and nonprofit organizations required by *Utah Code* 51-2a-201 to have audits must be conducted in accordance with *Government Auditing Standards* issued by the U.S. Government Accountability Office (see also Utah Administrative Code Rule R123-5-3).

All entities with total annual revenues or expenditures greater than or equal to \$350,000 are required to have their financial statements audited by a certified public accountant licensed to practice in Utah. All entities with total revenues or expenditures greater than or equal to \$200,000 but less than \$350,000 are required to have a review performed by a certified public accountant applying Statements on Standards for Accounting and Review Services (SSARS). All entities with total revenue or expenditures greater than or equal to \$100,000 but less than \$200,000 are required to have a compilation performed by a certified public accountant applying SSARS. Entities with revenues and expenditures less than \$100,000 are required to report financial information on forms provided by the Office of the Utah State Auditor.

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All audits of governmental entities with revenues or expenditures greater than or equal to \$350,000 are required to include tests of the general compliance requirements identified in this *Compliance Audit Guide* regardless of whether any state funds have been received. General compliance testwork and reporting is not required for any governmental entity where total revenues and expenditures are both less than \$350,000. Nonprofit organizations are not subject to the general compliance requirements. (However, charter schools normally are subject to general compliance requirements.)

State grants, contracts, programs, and loans with revenues or expenditures over \$350,000 are considered major programs. For entities with revenues or expenditures greater than or equal to \$350,000 (those required to have an audit), applicable general compliance requirements must be applied regardless of related revenue or expenditure amounts. For example, when an entity receives any Liquor Law Enforcement funds or B & C Road funds, the general compliance procedures for these funds must be performed. State provider contracts to nonprofit organizations with annual contract revenues over \$350,000 should be treated as major programs. Each major program received by an entity must be audited for compliance with the grant specific requirements outlined in this *Compliance Audit Guide*, or as determined by the independent auditor based on review of the contract or grant document. However, the requirement to test major programs does not apply to entities that have total revenues and expenditures of less than \$350,000 and are not required to have their financial statements audited.

Example 1: XYZ City had a total of \$140,000 in revenues and/or expenditures in the fiscal year. Of that total, \$20,000 was from local sources and the remaining \$120,000 was from a water system grant. Since XYZ City fell between the \$100,000 and \$200,000 limit, it is only required to have a compilation. State legal compliance testing of general or specific requirements is not required.

Example 2: ABC Mosquito Abatement District received \$152,000 in a grant from the Utah Department of Health to fight gypsy moths plus it received \$80,000 in local funds (property taxes) during the fiscal year. All grant and local funds were expended in the same fiscal year. Since the District's total revenues and expenditures are greater than \$200,000 but less than \$350,000, the District must hire a certified public accountant to perform a review of their financial statements. State legal compliance testing of general or specific requirements is not required.

Example 3: QXZ Nonprofit Organization had revenues totaling \$780,000. Of this amount, \$350,000 was a grant from the Utah Department of Health. All other revenues are from client billings. Since the Organization did not receive 50% of its funds from federal, state, or local governmental sources, it is not subject to any of the requirements of this *Compliance Audit Guide*. The grant need not be audited for compliance with grant specific requirements even though it meets the definition of a major grant because the entity is not subject to the audit requirements of Section 51-2 of the *Utah Code*. (However, the state grant may be subject to other audit requirements agreed to in the contract with the state department or agency.)

Example 4: ABC Family Services is a nonprofit corporation that receives 100% of its funds from federal, state, and local governmental sources totaling \$850,000. This amount includes grants from the Utah Department of Human Services (\$350,000) and the Utah State Office of Education (\$400,000). These state-funded grants are subject to grant specific compliance testwork and reporting in accordance with this *Compliance Audit Guide*. However, general compliance testing is not required.

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Example 5: A nonprofit organization is required to file an audit report with the Office of the Utah State Auditor. The organization received \$400,000 from a provider contract from Utah Department of Human Services. Since the provider contract exceeds \$350,000, a state major program exists and the auditor must follow the compliance testing and reporting requirements of this *Compliance Audit Guide*. No specific compliance requirements relating to the contract can be found in this *Compliance Audit Guide*. Therefore the auditor must review the provider contract and determine if the nonprofit organization complied with the provider contract. (The auditor should determine if the nonprofit organization provided the services they were paid for.) General compliance testing is not required. See Appendix A for a sample report.

STATE MATCHING FUNDS FOR FEDERAL GRANTS:

In many instances local governments and nonprofit organizations receive state money in the form of matching funds for federal grants. Also, in many cases the state agency providing the funds does not specify a breakdown between the usage of state and federal funds. Auditors are not required to test state matching funds of federal grants for state compliance issues. It is assumed that these funds will be audited for compliance as part of the federal grant when required and in accordance with OMB Circular A-133 and with the Single Audit Act Amendments of 1996.

PERFORMING RISK ASSESSMENT PROCEDURES AND TESTS OF INTERNAL CONTROLS:

For each general compliance area and each major state program and applicable compliance requirements selected for testing, the auditor should perform risk assessment procedures to obtain a sufficient understanding of the applicable compliance requirements and the entity's internal control over compliance with the applicable compliance requirements. If the auditor identifies risks of material noncompliance, the auditor should design and perform further audit procedures in response to such risks. These procedures should include performing tests of controls over compliance if the auditor expects controls over compliance to be adequate or if substantive procedures (tests of transactions) alone do not provide sufficient appropriate audit evidence. When tests of controls are performed, the auditor should test the operating effectiveness of controls over each applicable compliance requirement to which the conditions apply in the compliance audit.

A report on internal control over compliance is not required. The auditor should, nevertheless, communicate in writing to management and those charged with governance identified significant deficiencies and material weakness in internal control over state compliance requirements (see Statement on Auditing Standards No. 115, *Communicating Internal Control Related Matters Identified in an Audit*). Such communications on internal control over compliance can be combined with the report on state legal compliance (see paragraph .31 of Statement on Auditing Standards No. 117, *Compliance Audits*).

REPORTING ON STATE LEGAL COMPLIANCE:

In accordance with Utah Code 51-2a-202 and paragraph .29 of Statements on Auditing Standards No. 117, *Compliance Audits*, the auditor should form an opinion on whether the entity complied in all material respects with the applicable compliance requirements, and report appropriately. If an entity did not receive any major state financial assistance, the compliance opinion would only cover compliance with general compliance requirements.

The auditor's report on compliance should include the following elements:

- a. A title that includes the word *independent*

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- b. Identification of the general compliance requirements applicable to the entity (Not applicable to certain nonprofit organizations)
- c. Identification of the entity's major state programs (or a statement that the entity had no major state programs for the period)
- d. Identification of the applicable compliance requirements or a reference to where they can be found
- e. Identification of the period covered by the report
- f. A statement that compliance with the applicable compliance requirements is the responsibility of the entity's management
- g. A statement that the auditor's responsibility is to express an opinion on compliance with the applicable compliance requirements based on the compliance audit
- h. A statement that the compliance audit was conducted in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, and the *State of Utah Legal Compliance Audit Guide*
- i. A statement that the compliance audit included examining, on a test basis, evidence about the entity's compliance with those requirements and performing such other procedures as the auditor considered necessary in the circumstances
- j. A statement that the auditor believes the compliance audit provides a reasonable basis for his or her opinion
- k. A statement that the compliance audit does not provide a legal determination on the entity's compliance
- l. The auditor's opinion on whether the entity complied, in all material respects, with the general compliance requirements and the compliance requirements that are applicable to each of the entity's major state programs (the reference to general compliance requirements should be deleted for certain nonprofit organizations)
- m. If noncompliance that results in an opinion modification is identified, a description of such noncompliance, or a reference to a description of such noncompliance in an accompanying schedule

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- n. If other noncompliance that is required to be reported by this *Compliance Audit Guide* is identified (that is, noncompliance that does not result in an opinion modification), a description of such noncompliance or a reference to a description of such noncompliance in an accompanying letter to management
- o. When a response from responsible officials to findings or deficiencies is included in the report or letter to management, the auditor may add a paragraph to his or her report disclaiming an opinion on such information
- p. A separate paragraph at the end of the report that includes: 1) a statement indicating that the report is intended solely for the information and use of the specified parties, 2) an identification of the specified parties to whom use is restricted, and 3) a statement that the report is not indented to be and should not be used by anyone other than the specified parties
- q. The signature of the auditor's firm
- r. The date of the auditor's report

Illustrative auditor's reports on legal compliance, which contain all of the required elements, are shown in Appendix A to this *Compliance Audit Guide*.

REPORTING NONCOMPLIANCE:

The auditor should report as audit findings material noncompliance with state general and major state program compliance requirements as described in this *Compliance Audit Guide*. Materiality for compliance differs from financial statement materiality. Materiality for compliance is affected by 1) the nature of the compliance requirement, 2) the nature and frequency of noncompliance identified, and 3) qualitative considerations, such as the needs and expectations of state oversight and granting agencies.

In addition to reporting material instances of noncompliance in the state legal compliance report, the auditor should report views of responsible officials and planned corrective actions for findings related to general and major state program compliance requirements.

Utah Administrative Code Rule R123-5-5(6) states: "The governing body shall respond to the specific recommendations included in the auditor's letter to management. This response shall be remitted with the audited financial statements to the state auditor."

Auditors should also report identified other instances of noncompliance that do not result in an opinion modification but are more than inconsequential. Details of these immaterial instances of noncompliance can be communicated in the report or in a letter to management.

The auditor is to use professional judgment to determine whether and how to communicate to the entity violations of compliance requirements that are inconsequential and to document any such communications. Although not required, the auditor may decide to communicate such findings in a letter to management.

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When a management letter is used to communicate other instances of noncompliance (immaterial or inconsequential findings), the state legal compliance report should refer to the management letter and include a response from management either in the report or by referring to management’s response in the letter to management.

Findings and deficiencies required to be reported under *Government Auditing Standards* and Circular A-133 are to be included with those reports or in separate schedules. A letter to management normally is not used to communicate such matters. Views of responsible officials and their planned corrective action are included in those reports or by way of reference to a separate schedule in which significant deficiencies, views of responsible officials, and their planned corrective action are described. (For an audit in accordance with Circular A-133, all findings, including those required to be reported under *Government Auditing Standards*, should be included in the schedule of findings and questioned costs.)

The letter to management and the governing body’s response to the recommendations need not be bound with the financial statements and related auditor’s report, but the report will not be considered complete until all required elements have been received by the Office of the Utah State Auditor.

State Legal Compliance Requirements for Reporting Findings

	Report on State Legal Compliance	Communicate in Writing	Auditors Use Professional Judgment to Determine Reporting
Instances of noncompliance with general or major state compliance requirements:			
• Those that have a material effect	X		
• Less than material but more than inconsequential ¹		X	
• Those that are inconsequential			X
Deficiencies in internal control over state compliance requirements: ²			
• Material weakness		X	
• Significant deficiency		X	
• Deficiency in internal control			X

¹ Communication can be in the report or in a letter to management.

² A report on internal control over compliance is not required. The auditor should, nevertheless, communicate in writing to the entity identified significant deficiencies and material weakness in internal control over state compliance requirements. See SAS No. 115, *Communicating Internal Control Related Matters Identified in an Audit*. Required communications on internal control over compliance can be combined with the report on state legal compliance (see paragraph .31 of SAS No. 117, *Compliance Audits*.)

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Reference: GC-1
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Subject: General Compliance Public Debt

A. DEBTS OF COUNTIES, CITIES, TOWNS, AND SCHOOL DISTRICTS:

Compliance Requirement:

No debt in excess of total taxes for the current year shall be created by any county, city, town, or school district unless the proposition to create such debt shall have been submitted to a vote of qualified electors. (*Constitution of Utah, Article XIV, Sec. 3.*)

Suggested Audit Procedure:

Examine all new general obligation debt contracted for during the current year and determine if it exceeds total taxes of the governmental fund types for the current fiscal year. If so, determine if an election was held to approve such debt. Ensure that the maximum level of debt authorized was not exceeded.

B. LIMIT OF INDEBTEDNESS OF COUNTIES, CITIES, TOWNS, AND SCHOOL DISTRICTS:

Compliance Requirement:

Counties shall not contract for debt to an amount exceeding two percent of the fair market value of taxable property in the county. Cities, towns, and school districts shall not contract for debt to an amount exceeding four percent of the fair market value of taxable property in their jurisdictions. Cities and towns may incur a larger indebtedness for the purpose of supplying such city or town with water, sewer, or electricity when such public works are owned and controlled by the municipality. The additional indebtedness shall not exceed four percent for first and second class cities, and eight percent for third class cities and towns. (*Constitution of Utah, Article XIV, Sec. 4.*)

Suggested Audit Procedure:

Using the last county assessment of properties in the jurisdiction, compare the total fair market value of all taxable property in the jurisdiction to general obligation indebtedness of the entity. The last county assessment of properties can be found on the internet at <http://propertytax.utah.gov> then click on the entity value report.

Compliance Requirement:

The debt incurred shall be used strictly for the purpose of the county, city, town, or school district contracting for the debt. (*Constitution of Utah, Article XIV, Sec.5.*)

Suggested Audit Procedure:

Ensure that the proceeds of the debt were used only for the purposes of the entity contracting for the debt by examining expenditure ledgers and supporting documentation.

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C. LIMIT OF INDEBTEDNESS FOR LOCAL DISTRICTS:

Compliance Requirement:

Except for refunding general obligation bonds, if a district intends to issue general obligation bonds, the district shall first obtain the approval of the district voters for issuance of the bonds at an election held for that purpose.

A local district may not issue general obligation bonds if the issuance of the bonds will cause the outstanding principal amount of all of the district's general obligation bonds to exceed the amount that results from multiplying the fair market value of the taxable property within the district, as determined under Subsection 11-14-301(3)(b), by a number that is:

- (i) .05, for a basic local district;
- (ii) .004, for a cemetery maintenance district;
- (iii) .002, for a drainage district;
- (iv) .004, for a fire protection district;
- (v) .024, for an improvement district;
- (vi) .1, for an irrigation district;
- (vii) .1 for a metropolitan water district;
- (viii) .0004, for a mosquito abatement district;
- (ix) .03, for a public transit district; or
- (x) .12, for a service area.

Bonds or other obligations of a local district that are not general obligation bonds are not included in the limit stated in Subsection. (17B-1-1102)

Each of the districts noted above may issue revenue bonds in accordance with 17B-1-1105.

The following entities may issue bonds as follows:

<u>Entity Type</u>	<u>Bonding Capacity</u>
Health District (26A-1-114 and 115)	No bonded indebtedness authorized.
Community Development and Renewal Agency (17C-1-501 to 508)	Board must adopt resolution authorizing issuance. Revenue bonds may be issued. No limit.
Special Service District	G.O. debt not to exceed 12% of FMV. G.O. (17D-1-502 to 507) debt requires approval at election. No limit on revenue debt.
Interlocal Agencies (11-13-218)	Revenue bonds may be issued with no limit.

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Local Building Authority May issue bonds in accordance with 17D-2-501.

Water Conservancy May issue revenue bonds in accordance with 17B-1-1105 and 17B-2a-1004 (1)(a).

Suggested Audit Procedure:

For bonds issued during the current year, ensure that a bond election was held if required. Also, using the last county assessment of properties in the jurisdiction, compare the total fair market value of all taxable property in the jurisdiction to the general obligation indebtedness of the entity.

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Reference: GC-2
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Subject: General Compliance Cash Management

Compliance Requirement:

All public funds shall be deposited daily, whenever practicable, but not later than three business days after receipt. (*Utah Code 51-4-2(2)*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that public funds are deposited at least every three business days. When testing controls over cash receipts, ensure that the receipts were deposited within three business days of being received.

Compliance Requirement:

A public treasurer may conduct investment transactions only through qualified depositories, certified dealers, or directly with issuers of the investment securities. (*Utah Code 51-7-11(1)*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that investment transactions are conducted only with authorized institutions. Examine investment transactions to determine if they were conducted only with those institutions authorized.

Compliance Requirement:

The remaining term to maturity of an investment may not exceed the period of availability of funds to be invested. For example, if the entity receives quarterly sales tax money that will be used during the following quarter for operating purposes, this money cannot be invested in one-year instruments because the investment will not mature before the funds are needed. (*Utah Code 51-7-11(2)*.)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that the terms of investments of public funds do not exceed the period of availability of those funds. Examine investments held both at year-end and during the year to ensure that the term of the investment did not exceed the availability of funds invested.

Compliance Requirement:

All public funds, other than funds held for employees under Internal Revenue Code Section 457, may be deposited or invested only in those instruments and assets authorized in *Utah Code 51-7-11(3)*.

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that only authorized investments are purchased. Examine investments held during the year to ensure that they were authorized by *Utah Code 51-7-11(3)*.

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Subject: General Compliance Cash Management

Compliance Requirement:

The public treasurer shall ensure that all purchases and sales of securities are settled within 15 days of the trade date. There is an exception to this rule for tax anticipation, general obligations, bonds, notes, or other evidence of indebtedness of any county, city, town, school district, or other political subdivision of the state. (*Utah Code* Section 51-7-11(7)) Public treasurers must have custody (take delivery) of all securities purchased or held and all evidence of deposits and investments of public funds. Exceptions apply to nonqualifying repurchase agreements. This may be accomplished by having the securities delivered to a safekeeping custodian. (*Utah Code* 51-7-7)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that all securities transactions are settled within 15 days and that delivery is taken on all securities purchased. Examine purchases of securities to ensure that delivery was taken or that a safekeeping receipt was received.

Compliance Requirement:

Selection of investments shall be made with the exercise of that degree of judgment and care under circumstances then prevailing that persons of prudence and discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital, as well as the probable benefits to be derived. (*Utah Code* 51-7-14)
Also, public treasurers should meet the following objectives when investing public funds: (1) safety of principal; (2) need for liquidity; (3) yield on investments; (4) recognition of the different investment objectives of operating and permanent funds; and (5) maturity of investments, so that the maturity date of the investment does not exceed the anticipated date of the expenditure of funds. (*Utah Code* 51-7-17(2))

Suggested Audit Procedure:

Determine if the entity has a system of policies and procedures to ensure that investment transactions are undertaken in a prudent manner and that the above objectives are met.

Compliance Requirement:

The local government is responsible to submit certain funds to the State Treasurer, including: Wildlife Resources, State Boating Act, state surcharge in accordance with *Utah Code* 51-9-402, Displaced Homemaker Fees, Property Tax Equalization - Assessment and Collection, CAMA contribution, B & C Road Fund (overweight assessment.)

Suggested Audit Procedure:

Determine if applicable funds were submitted to the State Treasurer on form C-500.

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Subject: General Compliance Cash Management

Compliance Requirement:

All public funds invested in deposit instruments should be invested with qualified depositories within Utah, except that if national market rates on instruments of similar quality and term exceed those offered by qualified depositories within the state, then investments in out-of-state deposit instruments may be made. (*Utah Code 51-7-17(4)*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to compare in-state deposit rates with out-of-state deposit rates prior to making deposits out-of-state. Examine deposit transactions with out-of-state depositories to determine if similar rates could be obtained in state.

Compliance Requirement :

Every public treasurer shall secure a fidelity bond, based on the previous year's budgeted gross revenues, which includes all funds collected or handled by the public treasurer, in the amount shown in the table below. (*Utah Code 51-7-15 and Rule 4 of the Utah Money Management Council*)

<u>Budgeted Gross Revenue</u>			<u>Percent for Bond</u>		
\$0	to	10,000	n/a	but not less than	0
10,001	to	100,000	9%	but not less than	5,000
100,001	to	500,000	8%	but not less than	9,000
500,001	to	1,000,000	7%	but not less than	40,000
1,000,001	to	5,000,000	6%	but not less than	70,000
5,000,001	to	10,000,000	5%	but not less than	300,000
10,000,001	to	25,000,000	4%	but not less than	500,000
25,000,001	to	50,000,000	3%	but not less than	1,000,000
50,000,001	to	500,000,000	2%	but not less than	1,500,000
over		500,000,000		not less than	10,000,000

Suggested Audit Procedure:

Ensure that the public treasurer of the entity being audited is bonded for the proper amount by examining the bond document and/or by confirmation with the surety.

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Subject: General Compliance Purchasing Requirements

The Utah Procurement Code specifies general requirements for purchasing by local public procurement units. A local public procurement unit is any political subdivision of the State or an agency of any subdivision, public authority, and any other entity which expends public funds for the procurement of supplies, services, and construction. The Code specifically exempts counties, municipalities, and entities created by counties and municipalities under the Interlocal Cooperation Act from the requirements of this Code. However, the Uniform Fiscal Procedures Act for Cities requires cities to adopt an ordinance or resolution governing purchasing procedures. It also requires purchases to be made according to the purchasing procedures established by the city. There is nothing in the *Utah Code* which requires counties to adopt purchasing procedures. However, the Uniform Accounting Manual for Counties (II.F.06) states: "Each county should by ordinance or resolution, establish purchasing procedures that are not inconsistent with the appropriate sections of the Utah Procurement Code (63G-6)."

A. COUNTIES, MUNICIPALITIES, AND INTERLOCAL AGREEMENTS:

Compliance Requirement:

Counties, municipalities, and interlocal agencies created by counties and municipalities must adopt purchasing policies and procedures. These entities must comply with these policies and procedures when procuring supplies, services, and construction.

Suggested Audit Procedure:

Determine if the county, municipality, or interlocal agency has adopted formal purchasing policies and procedures. While testing expenditures of the county, municipality, or interlocal agency, extend testwork to determine if purchases were made in accordance with the entity's purchasing policies.

B. ALL OTHER LOCAL PUBLIC PROCUREMENT UNITS:

Compliance Requirement:

Purchasing policies shall contain the following provisions, and purchases of supplies, services, and construction shall be made in accordance with those provisions.

1. Policies shall be adopted governing the preparation and content of specification for supplies, services and construction and the extent to which outside parties who have prepared specifications may participate in the procurement of these goods and services. (*Utah Code* 63G-6-301)
2. All specifications shall seek to promote overall economy and best use for the purposes intended and encourage competition, and shall not be unduly restrictive. (*Utah Code* 63G-6-303)
3. Contracts shall be awarded by competitive sealed bidding or competitive sealed proposals except for small purchases, emergency purchases, or where there is only one source for the required supply, service, or construction item. An invitation for bids or proposals shall be issued by public notice. Bids/proposals shall be opened publicly. Bids/proposals shall be accepted without alteration except as provided by the Procurement Code. (*Utah Code* 63G-6-401 and 408)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-3
Page: 2 of 2
Subject: General Compliance Purchasing Requirements

4. Rules and regulations may be made regarding the separate handling of small purchases. However, purchases shall not be artificially divided up so as to qualify for purchasing under the small purchases rules. (*Utah Code 63G-6-409*)
5. Cost-plus-a-percentage-of-cost contracts are prohibited. (*Utah Code 63G-6-416*)
6. A purchasing agent shall be appointed.
7. An appeals procedure shall be included.
8. An ethics in public contracting provision shall be included.

Suggested Audit Procedure:

Determine if the entity has the required purchasing policies and procedures. While testing expenditures of the entity, extend testwork to determine if purchases were made in accordance with the entity's purchasing policies.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-4
Page: 1 of 3
Subject: General Compliance Budgetary Compliance

The following budgetary compliance requirements are summarized for towns, cities, special districts, counties, and school districts. Specific legal requirements can be found in the following sections of the *Utah Code*:

Towns	<i>Utah Code, Section 10-5</i>
Cities	<i>Utah Code, Section 10-6</i>
Local and Special Districts	<i>Utah Code, Section 17B-1-6</i>
Counties	<i>Utah Code, Section 17-36</i>
School Districts	<i>Utah Code, Section 53A-19</i>

Compliance Requirement:

The governing body of the entity shall establish the time and place of the public hearing to consider the adoption of the budget and shall publish notice of the hearing at least seven days prior to the hearing in at least one issue of a newspaper of general circulation published within the county in which the entity is located. If no such newspaper is published, the required notice may be posted in three public places. The tentative budget must be made available to the public for inspection for a number of days, as provided by law, prior to the budget hearing.

Suggested Audit Procedure:

Ensure that the entity provided the required notice for its budget hearing by reference to the certified copy of the notice. Also, ensure that the entity made the budget available to the public for the required period prior to the hearing.

Compliance Requirement:

At the time and place advertised, the governing body shall hold a public hearing on the tentatively adopted budget or amendment to the budget. All interested persons in attendance shall be given an opportunity to be heard on any item in the tentative budget.

Suggested Audit Procedure:

Review minutes of meetings of the governing body to ensure that the hearing was held as advertised. Comment on any actions taken which would appear to have limited the ability of persons to comment on the budget.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-4
Page: 2 of 3
Subject: General Compliance Budgetary Compliance

Compliance Requirement:

The governing body shall by resolution or ordinance adopt a budget for the ensuing fiscal year for each fund which a budget is required (general funds, special revenue funds, debt service funds, capital project funds, and enterprise funds.) The budget should be adopted by the date provided by law.

Suggested Audit Procedure:

Review the minutes of meetings of the governing body to ensure that the budget was formally adopted.

Compliance Requirement:

Officers and employees of the entity shall not incur expenditures or encumbrances in excess of the total appropriation for any department or fund. For counties and municipalities State Law requires budget integrity at the following levels:

- General Fund – Each department (If debt service is divided between principle and interest, consider it combined.)
- Special Revenue Fund – Each separate activity in total.
- Capital Project Fund – Fund in total.
- Debt Service Fund – Fund in total.
- All other taxing entities by fund.

Suggested Audit Procedure:

Examine the entity's records and financial reports to determine if the expenditures for any department/fund exceed the amounts appropriated in the final adopted budget.

Compliance Requirement:

Fund budgets of governmental fund types may be increased after the proper public hearing as required by law.

Suggested Audit Procedure:

Determine by inquiry if any changes have been made to governmental fund budgets. If total expenditures have increased, determine if a proper budget hearing was held in accordance with the applicable requirements by reference to certified copies of the published advertisement and by reference to minutes of the governing body's meetings.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-4
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Subject: General Compliance Budgetary Compliance

Compliance Requirement:

If within any utility enterprise fund budget, there are allocations or transfers which are not reasonable allocations of costs between funds, a public hearing must be held to receive public comment on the proposed transfer(s). All local entities must send proper notice of the public hearing to the utility enterprise fund customers. In the case of cities, towns and counties, a separate written notice of the date, time, place and purpose of the hearing shall be mailed to utility fund customers at least seven days before the hearing. All notices shall include the utility enterprise fund from which money is being transferred. The amount being transferred, and the fund to which the money is being transferred.

The notice and public hearing requirements are applicable to both the original budget and any amendments to the budget which may occur throughout the year.

Suggested audit procedure:

Examine the budget for any transfers from the enterprise utility fund(s). In the case of budget amendments, examine the budget for any increases in the amount of transfers from the utility enterprise fund(s). Determine the purpose of each transfer. If it is determined that any of the transfers are for other than a reasonable allocation of costs between funds, examine the separate notice of public hearing that was mailed out to the utility customers informing them of the public hearing. Verify that the notices contained all of the information required and was mailed out at least seven days before the scheduled time of the hearing.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-5
Page: 1 of 3
Subject: General Compliance Truth in Taxation and Property Tax Limitations

Compliance Requirement:

The governing body of each taxing entity shall, before June 22 of each year, adopt a proposed rate or, if the tax rate is not more than the certified tax rate, a final tax rate for the taxing entity. The governing body shall report the rate and levy to the county auditor. (*Utah Code 59-2-912*) (June 22 is an advisory date.)

Suggested Audit Procedure:

Examine the ordinance or resolution or governing body minutes setting the tax rate. Ensure that the rate was adopted and reported to the county auditor. The auditor is not required to test for compliance with the June 22 date.

Compliance Requirements:

If the governing body proposes a tax rate exceeding the certified tax rate, the following requirements must be met:

1. The entity must notify the county that it will hold a tax increase hearing on the date previously set. The county must include the information on the proposed increase and the date and time of the hearing in its *Notice of Valuation and Tax Changes*. This notice must be mailed at least ten days prior to the hearing date. (*Utah Code 59-2-919*)
2. The entity must advertise its intent to exceed the certified tax rate in a newspaper of general circulation in the county. The advertisement must appear once each week for the two weeks preceding the hearing. The date of the advertisement must be at least 7 days prior to the hearing. (*Utah Code 59-2-919*)
3. The advertisement must be at least a quarter page in size and must not be placed in the portion of the newspaper where legal notices and classified advertising appear. The type used shall not be less than 18, and shall be surrounded by a ¼ inch border. (*Utah Code 59-2-919*)
4. The hearing must be held on the date and at the time advertised. (*Utah Code 59-2-919*)
5. The governing body must adopt an ordinance or resolution setting the tax rate and certify that rate to the county auditor. (*Utah Code 59-2-919 and 920*)

Suggested Audit Procedure:

Determine if the entity has a system of controls to ensure that property tax rates are set as prescribed by law. Ensure that the entity provided the proper notice and advertising in accordance with the compliance requirements noted above by examining the county's *Notice of Valuation and Tax Changes* and the certified copy of the advertisement. Examine minutes of the meetings of the governing body to ensure that the hearing was held as advertised. Examine the ordinance setting the tax rate and ensure that it was forwarded to the county auditor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-5
Page: 2 of 3
Subject: General Compliance Truth in Taxation and Property Tax Limitations

Compliance Requirement: (Counties Only)

The *Notice of Valuation and Tax Changes* must be mailed at least ten days before the Board of Equalization meets to consider appeals of property tax valuations. (*Utah Code 59-2-919.1(2)*)

Suggested Audit Procedure:

Determine the date that the *Notice of Valuation and Tax Changes* was sent and ensure that the Board of Equalization did not begin hearing appeals until ten days later (by reference to the minutes of the Board of Equalization).

Compliance Requirement: (Counties Only)

The county board of equalization must consider all appeals brought before it and make a final decision on each appeal within a 60 day period after the day on which the application is made. (*Utah Code 59-2-1004*)

Suggested Audit Procedure:

Review the appeals received by the Board of Equalization and the minutes of the Board to ensure that all appeals have been heard and that it completed its work within the 60 day period after application is made. Or, if all appeals have not been heard, ensure that written permission to extend the board was obtained by the county from the Tax Commission.

Compliance Requirement: (Counties Only)

The county treasurer must disburse all tax monies collected during the preceding month to the appropriate taxing entities by the tenth day of each month. (*Utah Code 59-2-1365*)

Suggested Audit Procedure:

On a test basis, determine if the county made monthly disbursements of property taxes received in the previous month by the tenth of the month.

Compliance Requirement:

The taxing entity shall report all property taxes levied in the appropriate fund. For example, property taxes levied to meet debt service requirements should be reported in the Debt Service fund. Because of the specific levy, these tax revenues are restricted. In addition, because of the restriction, the entity generally should not subsequently transfer these property tax revenues to other funds. The primary exception to the no-transfer requirement would be when there is a residual equity transfer when a fund is closed out.

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LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance Truth in Taxation and Property Tax Limitations

Suggested Audit Procedure:

Determine the property tax collection rate for the entity. Based on the collection rate, calculate the amount of property tax that should have been allocated to each fund. Determine if the entity reported the proper amount in each fund. If any property tax revenues are subsequently transferred to other funds, verify that they are residual equity transfers to close out a fund. If the transfer is not a residual equity transfer, verify that the transfer is specifically allowed by State law, and is not an attempt to avoid the provisions of truth-in-taxation.

Compliance Requirement:

The Tax Commission requires the filing of form TC-693 *Tax Rate Summary*. The form includes a column "Budgeted Revenue." The amounts in that column should be the same as the revenue amounts in the entity's adopted budget.

Suggested Audit Procedure:

Determine that the amounts in the "Budgeted Revenue" column of form TC-693 are the same as the revenue amounts of the county's adopted budget.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-6
Page: 1 of 2
Subject: General Compliance Liquor Law Enforcement

TYPES OF AGREEMENTS	Allocated Per <i>Utah Code</i>
TYPES OF RECIPIENTS	Cities Counties Towns
SOURCE OF AUTHORIZATION AND REGULATIONS	<i>Utah Code</i> 32B-2-403 and 404

A. PROGRAM OBJECTIVES:

To provide additional funds for projects which prevent, detect, or prosecute alcohol-related offenses. Funds are distributed based on population; convictions for alcohol-related offenses; the number of state liquor stores, package agencies, and liquor licensees in the jurisdiction; and the number of confinements and rehabilitation facilities.

B. PROGRAM PROCEDURES:

Cities, towns, and counties submit qualification letters to the Tax Commission. The Department of Alcoholic Beverage Control provides the number of outlets by location. The State Court Administrator's Office provides the number of DUI/alcohol-related convictions by location. These factors are used to distribute the funds per State law. It is recommended that activities financed from these funds be accounted for in a separate account.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED:

Compliance Requirement:

Funds can be used on programs or projects for the prevention, detection, or prosecution of alcohol-related offenses. Counties may also use funds for construction or maintenance of facilities for confinement or rehabilitation.

Suggested Audit Procedure:

Test expenditures to determine if Liquor Law Enforcement funds were used only for the prevention, detection, or prosecution of alcohol-related offense or the construction of facilities for confinement or rehabilitation.

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LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance Liquor Law Enforcement

2. ELIGIBILITY

Compliance Requirement:

Funds are available to all incorporated towns, cities, and counties. If a municipality does not have a law enforcement agency they may not receive money. Entities are required to submit a letter detailing the programs for which funds will be used. Funds are distributed based on formula.

Suggested Audit Procedure:

The Auditor is not required to test eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING

Compliance Requirement:

Liquor Law Enforcement funds are intended to supplement the budget of Law Enforcement Agencies, and are not intended to replace funds which would otherwise be allocated for law enforcement and confinement or rehabilitation of persons arrested for or convicted of alcohol-related offenses.

Suggested Audit Procedure:

This requirement can only be adequately tested in the first year of the grant. It is important, however, for the client to comply with C.1.

4. REPORTING

There are no reporting requirements.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Page: 1 of 9
Subject: Justice Courts Compliance

Article VIII, Section 1 of the Utah Constitution creates what is known as the Justice Courts, which are courts “not of record” and are operated by either the county or municipality in which they are located. The territorial jurisdiction of a county justice court extends to the limits of the precinct for which the justice court is created and includes all cities and towns within the precinct, except cities where a municipal justice court exists. The territorial jurisdiction of a municipal justice court extends to the limits of the city or town boundaries for which it was created. Approximately two-thirds of all justice courts are municipal courts. (See *Utah Code* 78A-7-101 through 105)

Heather Mackenzie-Campbell - (801) 578-3889
Diane Williams – (801) 578-3985
Rick Schwermer – (801) 578-3816
Fax – (801) 578-3843

A. DEPOSITS OF RECEIPTS:

Compliance Requirements:

1. *Utah Code* Section 78A-7-121 requires the following: Municipal and county justice courts shall deposit public funds in accordance with Section 51-4-2. The city or county shall then apportion and remit in accordance with *Utah Code* Sections 78A-7-120 and 78A-7-122.

Utah Code Section 51-4-2(2)(a) requires all receipts be deposited daily when practicable but not later than three days after receipt.

Utah Code Section 51-4-2(4)(a) states that all justice courts, having funds due to the State or any political subdivision, shall on or before the 10th day of the month, pay all funds received within the preceding month to the appropriate public treasurer.

TO SUMMARIZE: the law requires funds collected be deposited within three days after receipt into an account controlled by the county or municipal treasurer. The local government treasurer’s receipt should detail the cash/check composition. It must be distributed to the State and other governmental entities by the 10th of the following month.

The municipal/county treasurer shall report to the city recorder or county auditor, as applicable, the sums collected and deposited. The city recorder or county auditor shall remit the collections due the state treasurer according to UCA 51-4-2(4)(a) Except as provided in Subsection (4)(b) and unless a shorter time for depositing funds is otherwise required by law, each political subdivision that has collected funds that are due to the state or to another political subdivision of the state shall, on or before the tenth day of each month, pay all of those funds that were receipted during the last month:

- (i) to a qualified depository for the credit of the appropriate public treasurer; or
- (ii) to the appropriate public treasurer.

Verify that state collections are remitted to the State Treasurer by the 10th day of the month following collections (per UCA 51-4-2(4)(a)). Was the remittance request properly supported? The Utah State Treasurer’s Office, Deposit Report, Form (C-500), should be supported by the CORIS Justice Court Monthly Report. Was a copy of the validated Deposit Report form returned to the court? (The state treasurer's office returns a validated copy of the form to the local government. The "validation" is the cash receipt number written on the

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LEGAL COMPLIANCE AUDIT GUIDE

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lower left corner of the form, e.g. CR5990.)

Local Government Bank Account Reconciliation – Receipt and disbursement of trust funds including bail, restitution, unidentified receipts, and other money that requires special accounting should be detailed in the local government’s general ledger and court records so a reconciliation can be performed per UC 10-6-139; UC 10-6-141; UC 17-19-1(3); UC 17-24-11; UC 59-10-529; UC 78A-7-121(4).

Court Trust Bank Account Reconciliation - With the approval of the governing body, a trust or revolving account may be established in the name of the justice court for the deposit of bail, restitution, unidentified receipts, and other money that requires special accounting. The account shall be reconciled at least quarterly by the governing body. (See *Utah Code* 78A-7-121(4))

B. DISPOSITION OF RECEIPTS:

Compliance Requirements: Refer to Disposition of Fines, Fees, and Forfeitures Table Below

C. REPORTS:

Compliance Requirement:

1. Every justice court judge shall file monthly with the State Court Administrator a report of the judicial business of the judge. The report shall be on forms supplied by the State Court Administrator. The report shall state the number of criminal and small claims actions filed, the disposition entered, and other information as specified in the forms. A copy of the report shall be furnished by the justice court judge to the governing body in the municipality or county, or to the person or office in the county, city, or town designated by the governing body. (See *Utah Code* 78A-7-215)

Suggested Audit Procedures to compensate for separation of duties weaknesses if independent review is not performed: If authorization, custody of assets, and record keeping duties are not separated (limited staff) and no compensating review performed by an individual independent without access to monies collected, perform the following:

1. Select a sample of cases with a full or partial payment receipted during the audit period. Verify compliance of deposits (Section A), disposition of receipts (Section B) and reports (Section C). Document the results of the review and recommended action.
2. Credits: Select a sample of credits issued (CORIS credit detail report) during the audit period.

Verify each credit was authorized by the bail schedule (as specified in the Uniform Fine/Bail Schedule) or ordered by the judge (specified in the judicial order or a general court order). In addition, review the documented proof of compliance, e.g. completion of community service, completion of alcohol treatment, proof of valid registration, proof of repair of faulty equipment or other judicially specified reason attached to the citation, stored in the case file or scanning system, or filed with the daily accounting records. Document the results of the review and recommended action.

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3. A/R Adjustments: Select a sample of account receivable (a/r) adjustments (CORIS adjustments to a/r) during the audit period.

Verify each a/r adjustment was entered to correct a clerical error when setting up the amount or the amount is no longer due (dismissed offense based on proof specified in the Uniform Fine & Bail Schedule or dismissed by judge in a judicial order). Document the results of the review and recommended action.

4. Dismissed Offenses/Amounts: Select a sample of dismissed offenses that clerks are authorized to dismiss as specified in the Uniform Fine & Bail Schedule (CORIS charge disposition report) during the audit period.

Verify each dismissed offense is appropriate. Review the documented proof provided to the clerk (proof of insurance, proof of drivers license in effect at time of offense, etc. as specified in the bail schedule. The proof of documentation is attached to the citation, stored in the case file or scanning system, or filed with the daily accounting records. Verify that an appropriate reason or explanation was provided in each case.

All other dismissed offenses, not specified in the Uniform Fine & Bail Schedule and CJA Rule 4-704, must be dismissed by written judicial order. Verify that an appropriate reason or explanation was provided in each case.

Document the results of the review and recommended action.

Note: The Uniform Fine/Bail Schedule is located at:
http://www.utcourts.gov/resources/rules/ucja/append/c_fineba/

5. Voided Receipts: Select a sample of transaction reversals (CORIS transaction reversals report) during the audit period.

Verify that each transaction reversal (void) was initiated by the cashier and approved by a second clerk/employee to compensate for separation of duties weaknesses. Select any reversals initiated and approved by the same clerk/employee with a focus on cash transactions and review for propriety. If a cash receipt, verify the re-receipt. If a cash payment was receipted, then voided at a much later time/date, review for propriety. Document the results of the review and recommended action.

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Subject: Justice Courts Compliance

The following table summarizes the disposition of fines, fees, and forfeitures.

DISPOSITION OF JUSTICE COURT FINES, FEES, AND FORFEITURES 07/10

Receipt	Type of Ordinance	Disposition
Surcharge	85% Felony Surcharge or class A misdemeanor, Title 41, Chapter 6a, Part 5 DUI & Reckless Driving or any class B misdemeanor not classified within Title 41. 35% Surcharge on any other offense except non-moving traffic violation or when community service is ordered in lieu of fine (UC 51-9-401)	State Treasurer according to UC 63-63a-2(2)(a)(b)
Security Surcharge	A security surcharge of \$32 shall be assessed on all convictions for offenses listed in the uniform bail schedule adopted by the Judicial Council and moving traffic violations. (UC 78A-7-122)	<p>The security surcharge shall be allocated as follows:</p> <ul style="list-style-type: none"> (a) the assessing court shall retain 20% of the amount collected for deposit into the general fund of the governmental entity; and (b) 80% shall be remitted to the state treasurer to be distributed as follows: <ul style="list-style-type: none"> (i) 62.5% to the treasurer of the county in which the justice court which remitted the amount is located. (ii) 25% to the Court Security Account, created in Section 78A-2-602; and (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in Section 78A-7-301. <p>The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act. (UC 78A-7-122(3) and (4).</p>

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LEGAL COMPLIANCE AUDIT GUIDE

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Subject: Justice Courts Compliance

Receipt	Type of Ordinance	Disposition
Fines and Forfeitures (not otherwise listed below)	Municipal or County (UC 78A-7-120(1))	½ to Local Gov. responsible for court ½ to Local Gov. which prosecutes case
Fines and Forfeitures	Wildlife, UC 23 (UC 78A-7-120(2)(a))	85% to State Treasurer for distribution to the Wildlife Division 15% to Local Gov. responsible for court
Fines and Forfeitures	Off-Highway, UC 41-22 (UC 78A-7-120(2)(b))	85% to State Treasurer (for distribution to the State Div. of Parks & Recreation). 15% to Local Gov. responsible for court
Fines and Forfeitures	Boating Act, UC 73-18 (UC 78A-7-120(2)(b))	85% to State Treasurer (for distribution to the Div. of Parks & Recreation). 15% to Local Gov. responsible for court
Fines and Forfeitures	Maximum weight limits & Overweight permits UC 72-7-404, 406. (UC 78A-7-120(4))	100% to the State Treasurer (for distribution to the State Class B & C road account).
Fines and Forfeitures	UC 53B-3-107 Traffic violations (State Institutions of Higher Education.)	100% to the State Treasurer (to be credited to the general operating fund of institution of higher education).
Fees on Overweights & Over Permits	Admin. Office of Courts. \$50 trial case; case w/judge time; or bail forfeiture	½ to Local Gov. which prosecutes case ½ to Local Gov. responsible for court
Fines and Forfeitures	UC 41-6a-1713(2) or UC 72-7-7-409(2), second or subsequent violation	60% to State Treasurer (for distribution to the State Transportation Fund). 40%, ½ to the treasurer of the Local Gov. responsible for court and ½ to the treasurer of the Local Gov. which prosecutes
Fines and Forfeitures	UC 72-7-409(C)(2), second or subsequent violation	50% to State Treasurer (for distribution to the State Transportation Fund). 50%, ½ to the treasurer of the Local Gov. responsible for court and ½ to the treasurer of the Local Gov. which prosecutes

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Subject: Justice Courts Compliance

Receipt	Type of Ordinance	Disposition
Plea in Abeyance Fees	UC 77-2a-3(5) UC 77-2-4.2(3)(a)(3) In all cases which are compromised pursuant to the provisions of Subsection (2): <ul style="list-style-type: none"> (a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall: <ul style="list-style-type: none"> (i) be subject to the same surcharge as if imposed on a criminal fine; (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 63, Chapter 63a, Crime Victim Reparation Trust (iii) be not more than \$25 greater than the bail designated in the Uniform Bail Schedule. 	State Treasurer (surcharge portion), remaining portion ½ to Local Gov. which prosecutes case ½ to Local Gov. responsible for court
Fees Charged for Traffic School, Class, or Other Rehabilitative Program	UC 77-2a-3(5) UC 77-2-4.2 If no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected. The surcharge is collected and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine.	State Treasurer (surcharge portion), local government, or traffic school provider.

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Receipt	Type of Ordinance	Disposition
DUI Assessment	Full compensation for treatment (UC 62A-15-502 and 503)	State Treasurer, local government, or rehabilitation agency
Abstract	UC 78A-2-301(1)(m)(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the Utah State Tax Commission, is \$40.	City or Town; County
Audio Tape Copy	CJA Rule 4-202.08(3)(C) audio tape: \$10 per tape	City of Town; County
Certification/Certified Copies	UC 78A-2-301(1)(y) The fee for a certified copy of a document is \$4 per document plus 50 cents per page.	City or Town; County
Collections Cost (collection cost on NSF check \$20)	UC 7-15-1(4)(b)	City of Town; County
Contempt fine	UC 78B-6-308 Fine not to exceed \$500	City of Town; County
Copy Fee \$.25 a page	CJA Rule 4-202.08(3)(A) paper except as provided in (H): \$.25 per sheet	City or Town; County
Court Costs	UC 77-32a-1; UC 77-32a-2; UC 77-32a-3	City or Town; County
Electronic Payment Fee	UC 10-8-85.6(3) A municipality that accepts an electronic payment may charge an electronic payment fee UC 17-15-28(3) A county that accepts an electronic payment may charge an electronic payment fee.	City of Town; County

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Receipt	Type of Ordinance	Disposition
Exemplified Copies	UCA 78A-22-301(Z) The fee for an exemplified copy of a document if \$6 per document plus 50 cents per page.	City or Town; County
Expungement \$135 for a petition for expungement	UC 77-18-11; CJA Rule 4-207(3)	City or Town; County
Floppy Disk CD Copy	CJA Rule 4-202.08(3)(E) Floppy disk or compact disk other than of court bearings: \$10 per disk.	City or Town; County
Garnishment Small Claims	UC 78A-2-301(v) The fee for a writ garnishment is \$35	City or Town; County
Postage – Copies	CJA Rule 4-202.08(4) <i>Mailing.</i> The fee for mailing is the actual cost. The fee for mailing shall include necessary transmittal between courts or offices for which a public or private carrier is used.	City or Town; County
Return Check Fee (service charge \$20)	UC 7-15-1(2)(B)(II)(b)(ii)	City or Town; County
Small Claims Filing Fee OK-2K \$60	UC78A-8-105(2); UC 78A-2-301(1)(C)(i); UC 78A-7-121	City or Town; County
Small Claims Filing Fee 2K → 7,500 \$100	UC 78A-8-105(2); UC 78A-2-301(1)(c)(ii) UC 78A-7-121	City or Town; County
Small Claims Filing Fee 7,500 > 10K \$185	UC 78A-8-105(2); UC 78A-2-301(1)(c)(ii) UC 78A-7-121	City or Town; County
Small Counter Filing Fee 0K – 2K \$50	UC 78A-8-105(2); UC 78A-2-301(1)(e)(i); UC 78A-7-121	City or Town; County

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Reference: GC-7
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Subject: Justice Courts Compliance

Receipt	Type of Ordinance	Disposition
Small Counter Filing Fee 2K – 7,500 \$70	UC 78A-8-105(2); UC 78A-2-301(1)(e)(i); UC 78A-7-121	City or Town; County
Small Counter Filing Fee 7,500 → 10K \$120	UC 78A-8-105(2); UC 78A-2-301(1)(e)(i); UC 78A-7-121	City or Town; County
Small Claims Appeal Processing fee \$10	UC 78A-7-121; UC 78A-8-105	City or Town; County
Special Searches (beyond the first 15 minutes of personnel time)	CJA Rule 4-202.08(5)(A)-(F)	City or Town; County
Telephone/FAX Charge	CJA Rule 4-202.08(4)(b) <i>Fax.</i> The fee for faxing is \$5 for 10 pages or less. The fee for additional pages is \$.50 per page.	City or Town; County
Traffic School Fee	Amount set by local government; not a court fee.	City or Town; County
Video Tape Copy	CJA Rule 4-202-.08(3)(D) Video tape: \$15 per tape	City or Town; County

STATE OF UTAH

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Reference: GC-8
Page: 1 of 6
Subject: General Compliance B and C Road Funds

TYPES OF AGREEMENTS: Appropriation/Formula

TYPES OF RECIPIENTS: Cities & Towns
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code, Sections 72-3-103 to 110, 72-6-108 to 110, 72-2-107 to 110 and 72-7-106.*
Regulations Governing Class B and Class C Road Funds, 1999 Revision.

INFORMATION CONTACT: UDOT - Local Government Programs Engineer A.
A. Matthew Swapp 965-4366 or Kevin Anderson
964-4542; Fax 965-4551

A. PROGRAM OBJECTIVES:

To provide funding as a means for assisting counties and incorporated municipalities with the construction and maintenance of county roads and city and town streets throughout the State.

B. PROGRAM PROCEDURES:

The funding for the Class B and C Roads comes from 30% of the state highway user taxes. The funds are appropriated to the counties and municipalities based upon the following formula:

1. 50% in the ratio that the entity's weighted road mileage bears to the total Class B and C weighted road mileage in the state. (Weighted road mileage is further defined in the *Utah Code, Section 72-2-108.*)
2. 50% in the ratio that the entity's total population bears to the state's total population as of the last official census, revenue sharing estimate, or Bureau of Census estimate, whichever is most recent, except that if population estimates are not made for an entity by the U.S. Bureau of Census, population figures shall be determined according to the biennial estimate from the Utah Population Estimate Committee. (*Utah Code, Section 72-2-108*)

The funds in the Class B and C road account shall be expended under the direction of the State Transportation Commission in such manner as the Legislature shall provide. (*Utah Code, Section 72-2-107*) Permissible uses include, but are not limited to, the uses listed in Section IV of the Regulations Governing Class B and C Road Funds, (2008 – 2009 Revision).

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-8
Page: 2 of 6
Subject: General Compliance B and C Road Funds

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED:

Compliance Requirement:

Permissible Uses

Including, but not limited to, the following:

- a. All construction and maintenance on eligible Class B and C roads (*Utah Code, Sections 72-3-103 to 72-3-104*)
- b. Sidewalks, curb and gutter (on all eligible roads and state highways), safety features, traffic signals, and traffic signs (*Utah Code, Section 72-8-104*) (Bicycle Paths in B&C Roads)
- c. Investments for interest purposes (interest to be kept in the fund)
- d. Equipment purchases or equipment leases and rentals
- e. Engineering and administration
- f. Future reimbursement of other funds for large construction projects
- g. Rights of way acquisition, fencing, and cattle guards
- h. Matching federal funds (*Utah Code, Section 72-2-110*)
- i. Equipment purchased with B and C funds may be leased from the road department to another department or agency using the rental rate established by the Federal Emergency Management Agency (FEMA) schedule of equipment rates.
- j. Construction of road maintenance buildings, storage sheds, and yards. Multiple use facilities may be constructed by mixing funds on a proportional basis.
- k. Construction and maintenance of alleys
- l. Litigation of RS-2477 issues (see 2009 regulations and HB 278)

Non-Permissible Uses

Including, but not limited to, the following:

- a. Non-road uses
- b. Police Costs
- c. To pay for rental on equipment which was previously purchased with B&C road funds

(Section IV of the Regulations Governing Class B and C Road Funds, 2001 Revision)

Suggested Audit Procedure:

Test the B and C road fund expenditures to determine whether the costs were incurred only for permissible uses.

STATE OF UTAH

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Reference: GC-8
Page: 3 of 6
Subject: General Compliance B and C Road Funds

2. ELIGIBILITY:

Compliance Requirement:

Class B and C funds may be used only for construction and maintenance on eligible B and C roads. (B and C roads are defined in Sections 72-3-103 and 104; maintenance and construction are defined in Section 72-6-109.) Roads or streets with locked gates or restrictive signing will not be included as eligible roads. (*Utah Code, Section 72-7-106*) Eligibility requirements for Class B and C roads and streets are explained in Section VI of the Regulations Governing Class B & Class C Road Funds, (2008 - 2009 Revision).

Suggested Audit Procedures:

Test the B and C road fund expenditures to determine whether the costs were incurred only for eligible roads.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS:

No matching funds are required from the county or the municipality.

4. SPECIAL TESTS AND PROVISIONS:

Compliance Requirement:

Counties, cities, and towns shall cause to be made plans, specifications, and estimates preparatory to the construction of any project on a Class B or C road, when the estimated cost for any one project exceeds \$125,000 in 2003 + 3% per year increase for labor, equipment, and materials. (*Utah Code, Sections 72-6-108 and 109*)

Suggested Audit Procedure:

Review project files to verify that the appropriate documents were prepared.

Compliance Requirement:

All construction plans, specifications, and estimates required by Section 72-6-108 and all construction work shall be prepared and performed under the direct supervision of a registered professional engineer who shall certify to the governing officials that all road construction projects conform to design and construction standards as currently adopted by the American Association of State Highway and Transportation Officials. (*Utah Code, Section 72-6-110*)

STATE OF UTAH

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Subject: General Compliance B and C Road Funds

Suggested Audit Procedure:

Review the entity's files to determine that all construction work was prepared and performed under the direction of a registered professional engineer, and that the engineer has provided the required certification to the governing officials.

Compliance Requirement:

All projects in excess of \$144,900 (2008) – (\$125,000 for 2003, 3 % increase for each subsequent year) for labor, equipment, and materials shall be performed under contract let to the lowest responsible bidder. Whenever the estimated cost of the construction exceeds the sum of \$144,900 for labor, equipment, and materials, the same shall not be so divided as to permit the construction in several parts, except by contract. (*Utah Code, Section 72-6-108*)

Suggested Audit Procedure:

Review selected files to determine adherence with the prescribed procedure.

Compliance Requirement:

Where the estimates of a qualified engineer referred to in Section 72-6-108 are substantially lower than any responsible bid received or in the event no bids are received, the county or city may perform the work by force account. (*Utah Code, Section 72-6-109*) "Substantially lower" means that the low bid is more than 10% higher than the engineer's estimate.

Suggested Audit Procedure:

Review the supporting documents for projects estimated to cost more than \$125,000 where the work was performed by force account. Determine that proper procedures were followed. Equipment costs are to be determined using the Federal Emergency Management Agency schedule of equipment rates.

Compliance Requirement:

The governing body of any municipality or county may issue bonds redeemable up to a period of ten years under *Title 11, Chapter 14, the Utah Municipal Bond Act*, to pay the costs of constructing, repairing, and maintaining class B or C roads and may pledge class B or C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds. (*Utah Code, Section 72-2-108*)

Suggested Audit Procedure:

Verify that bonds and bond payments comply with this requirement.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-8
Page: 5 of 6
Subject: General Compliance B and C Road Funds

Compliance Requirement:

The advertisement for bids on B and C roads shall be published in a newspaper of general circulation in the county in which such work is to be performed at least once a week for three consecutive weeks, or if there is no such newspaper, then after posting such notice for at least twenty days in at least five public places in the county. Sealed bids shall be received by the governing officials and opened at the time and place designated in the advertisement, and the contract awarded (provided that the governing officials shall have the right to reject any and all bids and provided that the person, firm, or corporation to whom any such contract is awarded) shall be subject to all provisions of *Title 63, Chapter 56, Utah Procurement Code. (Utah Code, Section 72-6-108)*

Suggested Audit Procedure:

Review the entity's project files to verify that the advertising requirements were followed.

Compliance Requirement:

If any payment on a contract with a private contractor for work on a class B or C road is retained or withheld, it shall be placed in an interest bearing account and the interest shall accrue for the benefit of the contractor and subcontractors to be paid after the project is completed and accepted by the governing officials. (*Utah Code, Section 72-3-108(6)*)

Suggested Audit Procedure:

Review contractor payments and verify that any withholdings from the payments have been deposited in an interest bearing account and that the interest accrues to the benefit of the contractors.

Compliance Requirement:

Any local authority desiring to allow its Class B and C road funds to accumulate until such time as sufficient funds are available for more extensive road projects, can invest said monies in government offerings or time certificates of deposit for interest earning purposes. All interest thus earned is to be credited to the local entity's B and C road fund account. (Regulations Governing Class B and Class C Road Funds, 2001 Revision.)

Suggested Audit Procedure:

Verify that the funds have been deposited as required and that the interest has been credited to the entity's B and C road fund account.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-8
Page: 6 of 6
Subject: General Compliance B and C Road Funds

Compliance Requirement:

The salaries of County Officers are to be paid monthly from the General Fund. The General Fund shall not be reimbursed from the Class B road fund for the cost of County Officers for the current year or previous years. (*Utah Code, Section 17-16-18*)

Suggested Audit Procedures:

Verify that Class B road funds are not being used to reimburse the General Fund for the cost of County Officers during the current year or for previous years.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-9
Page: 1 of 1
Subject: General Compliance Special Service and Local Districts

Title 17B, 17D and other sections of the *Utah Code* contain legal requirements for districts. Because there are numerous districts, there are also numerous specific requirements for specific districts. There are, however, certain requirements that pertain to all districts.

A. BOARD MEMBER QUALIFICATION:

Compliance Requirement:

Except for the exemptions per 17B-1-311(3), Section 17B-1-311(1) and (2) of the *Utah Code* states that no elected or appointed member of the board of trustees may, while serving on the board, be employed by the district, whether as an employee or under contract. No person employed by a local district, whether as an employee or under contract, may serve on the board of that local district.

Suggested Audit Procedure:

1. Request a representation, in the management representation letter, stating that no member of the board is also an employee of the district at the same time.
2. Compare names of governing board members to payroll or personnel records.

B. PERSONNEL POLICY:

Compliance Requirement:

Section 17B-1-801 through 804 of the *Utah Code* requires districts with any full or part-time employees to have a personnel system which incorporates policies for the following: recruiting, advancing, compensating, training, fair treatment, and provision of information about political rights and appeals procedures. The system should be updated annually. This requirement does not apply to districts with annual revenues less than \$50,000.

Suggested Audit Procedure:

If the district has any full-time or part-time employees, determine that the district has an updated personnel policy.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-10
Page: 1 of 3
Subject: General Compliance Other General Compliance Issues

This section includes general compliance issues which are immaterial or would not result in the auditor qualifying his opinion. However, the entity is expected to comply with these provisions and the auditor is expected to test for compliance. Instances of noncompliance should be reported in the management letter.

A. RECORDS RETENTION:

Compliance Requirement:

Governmental entities are required to: 1) establish and maintain a records management program; 2) make appointments of records officers to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records; 3) make and maintain adequate and proper documentation of the organization; 4) submit to the state archivist proposed schedules of records for final approval by the records committee; 5) report to the state archives designated classification of all records series. (UCA 63A-12-103)

Suggested Audit Procedure:

1. Determine if the entity is in compliance with the Government Records Access and Management Act or have an approved ordinance/policy with summary description that has been sent to the State Archives.
2. Review retentions and determine if the entity is in compliance with General Records Retention Schedules or specific schedules they have developed. (General Records Retention Schedules may be obtained from the Utah State Archives and Records Services, (801) 531-3848 or on the web at www.archives.utah.gov.)

B. UNCLAIMED PROPERTY:

Unclaimed property is tangible or intangible property for which an owner cannot be located. Intangible property includes such items as money, drafts, deposits in a financial institution, interest, dividends, incomes, credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused tickets, unidentified remittances, stocks, mutual funds, bonds, notes and other debt obligations, amounts distributable from plans providing pension, vacation, severance, retirement, death, profit sharing and like benefits, and amounts distributable from a mineral interest in land.

Compliance Requirement:

A government entity holding intangible property for more than one year after the property became payable or distributable must report and remit the property to the State Treasurer's Office, Division of Unclaimed Property, by November 1 of each year as of the preceding June 30. See *Utah Code* 67-4a-210 and 301. Report forms are available from the Division of Unclaimed Property by calling (801) 715-3300 or faxing (801) 715-3309. The address for the Division of Unclaimed Property is

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Page: 2 of 3
Subject: General Compliance Other General Compliance Issues

168 North 1950 West, Suite 102, Salt Lake City, UT 84116. If the entity had a “nil” report (no unclaimed property), no report is required to be filed.

Suggested Audit Procedure:

If required, determine if the entity has filed its annual report for the fiscal year under audit to the State Treasurer, Division of Unclaimed Property by contacting the Division of Unclaimed Property at the above phone number and/or address. Determine if the entity has any property it is holding for others which could be considered abandoned over one year, but which was not reported.

C. CHILDREN ' S LEGAL DEFENSE FUND:

Compliance Requirement:

Counties are required by *Utah Code* 17-16-21(2)(c) to collect a fee of \$10 for each marriage license for the Children’s Legal Defense Fund. This fee is to be remitted by the county clerk to the State Division of Finance.

Suggested Audit Procedure:

1. Determine how many marriage licenses were issued by the county clerk for the year and multiply by \$10 to determine the total that should have been collected by the county for the Fund.
2. Determine if the amount that should have been collected (as determined in step 1.) was remitted to the State Division of Finance.

D. DISPLACED HOMEMAKER PROGRAM:

Counties are required by *Utah Code* 17-16-21(2)(b) to collect a fee of \$20 for each marriage license for the Displaced Homemaker Program. This fee is to be remitted by the county clerk to the State Division of Finance.

Suggested Audit Procedure:

1. Determine how many marriage licenses were issued by the county clerk for the year and multiply by \$20 to determine the total that should have been collected by the county for the Fund.
2. Determine if the amount that should have been collected (as determined in step 1.) was remitted to the State Division of Finance.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-10
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Subject: General Compliance Other General Compliance Issues

E. ETHICS:

Compliance Requirement:

The law prescribes standards of conduct for officers and employees of the State's political subdivisions in areas where there are actual or potential conflicts of interest between their public duties and their private interests. For example, Utah Code 67-16 prohibits the acceptance and solicitation of gifts, compensation or loans by a public officer or employee; it also deals with conflicts of interest.

Suggested Audit Procedure:

Request a representation, in the management representation letter, stating that management, the governing board and employees have complied with standards of conduct as found in section 67-16 of the Utah Code.

F. NEPOTISM:

Compliance Requirement:

The *Utah Code*, section 52-3, states that, except under specific circumstances, no public officer may employ, appoint, vote for, recommend the appointment of, or supervise a relative, when the salary, wages or compensation of that relative will be paid from public funds.

Suggested Audit Procedure:

Request a representation, in the management representation letter, stating that management has complied the Nepotism Act as found in section 52-3 of the *Utah Code*.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-11
Page: 1 of 1
Subject: General Compliance Uniform Building Code Standards

Information Contact: Dan S. Jones, Bureau Manager - 530-6720
Construction Trades Bureau
Division of Occupational and Professional Licensing

Utah Code, Section 58-56 provides uniform building standards for the State of Utah. Pursuant to *Utah Code, Section 58-56-4(2)*, the State has adopted the *International Building Code*, the *International Plumbing Code*, the *International Mechanical Code*, the *National Electrical Code*, the *International Energy Conservation Code*, the *International Residential Code*, the *International Fuel Gas Code*, and the *Federal Manufactured Housing Construction and Safety Standards Act* as the building standards for the State of Utah. These codes mandate that local jurisdictions issue building permits and perform inspections for construction within their jurisdictions. A schedule of fees is to be established by those jurisdictions for the issuing of building permits.

Utah Code, Section 15(a)-1-209(5) mandates that each compliance agency shall charge a 1% surcharge on all building permits issued and shall remit 80% of the surcharge collected to the Division of Occupational and Professional Licensing to be deposited into the General Fund as a dedicated credit to be utilized by the division to provide inspectors with the necessary training, education, and testing in order to meet the minimum qualifications to become licensed as building inspectors. The 1% surcharge should be charged on all inspection fees. However, it is not required on plan check fees or on impact fees.

A. REPORTS:

Compliance Requirement:

Each county municipality is required to file a quarterly report on a form provided by the division indicating the total amount collected for building permits within their jurisdiction. The report further breaks down the computation to the .8%, which is to be paid to the division with the filing of the report. The report with the remittance is to be mailed to the Division of Occupational and Professional Licensing no later than 30 days following the end of each quarter.

Suggested Audit Procedure

1. Determine whether the quarterly reports were filed.
2. Use analytical procedures to determine whether the amounts submitted with the reports (80% of the surcharge) to the Division of Occupational and Professional Licensing were reasonable.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-12
Page: 1 of 1
Subject: General Compliance Statement of Taxes Charged, Collected, and Disbursed -
Current and Prior Years (Counties Only)

Both the Tax Commission and the State's Uniform Accounting Manual require a Statement of Taxes Charged, Collected, and Disbursed - Current and Prior Years (also called the treasurer's settlement statement). The statement is used to disclose property tax activity within the county.

Compliance Requirement:

Every county is required to have this statement in its audit report for years ending December 31, 1993 and later. The independent auditor should also provide at least, "in relation to the financial statements taken as a whole" assurance on this statement.

Suggested Audit Procedures:

1. Determine if the statement agrees with the county's records and is materially correct.
2. Ensure that the statement is included in the supplemental section of the financial statements.
3. Ensure that "in relation to" assurance on this statement is provided in the independent auditor's report on the financial statements.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-13
Page: 1 of 1
Subject: General Compliance Assessing & Collecting Property Taxes (Counties Only)

This section includes compliance requirements for the accounting for funds raised by levies on property taxes which are to be used in each county's functions of assessing, collecting, and distributing property taxes. The *Utah Code* 59-2-1602 through 59-2-1605 discusses this area. Part 59-2-1602(1) states that, "The purpose of the levy established . . . is to promote the accurate valuation of property, the establishment and maintenance of uniform assessment levels within and among counties, and the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes." Part 1605 states that, "Each county shall separately account for the use of any monies received or expended under a levy imposed under Section 59-2-1602, 59-2-1603, 59-2-1604."

Compliance Requirement:

Every county is required to separately account for assessing and collecting ("A&C") funds, whether received from the State's Property Tax Valuation Agency Fund, or from its own levy. Further, each county is required to spend such funds only on functions related to the valuation of property, the establishment and maintenance of uniform assessment levels; and the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes.

Direct charges to this function will originate in certain county departments which deal with A&C, i.e., assessor, treasurer, auditor. Since those departments usually perform a variety of duties, only a supportable allocation of their costs should be made to the A&C function. Related indirect costs; i.e., building maintenance, utility costs, and personnel costs, may also be allocated to this function. Such costs will need to be allocated twice: first, to the department based on a reasonable and supportable allocation method, i.e., square footage, CPU time, personnel count; and, second, through the department's allocation to the A&C function.

Suggested Audit Procedures:

1. Examine the county's separate accounts for the A&C function and document that the county has properly accounted for A&C revenues separately, both those received from the state and those received from its own levy.
2. Examine the county's costs charged to A&C. Document that the costs, both direct and indirect, were related to the A&C function and were allocated using reasonable allocation percentages.
3. Document that any A&C revenues which exceeded costs charged in the year under audit were carried over and reserved for the A&C function for the following year.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-14
Page: 1 of 3
Subject: General Compliance Transient Room Tax and Tourism, Recreation, Culture, and Convention Facilities Tax (Counties Only)

The *Utah Code* 59-12-301 allows a county to impose a transient room tax not to exceed 4.25 percent.

Utah Code 17-31-5.5 provides that the Legislative body of each county imposing the transient room tax and/ or tourism, recreation, culture, and convention facilities tax shall annually engage an independent auditor to perform an audit to verify that transient room tax funds and tourism, recreation, culture, and convention facilities tax are used only as authorized by this chapter and to report the findings of the audit to the county legislative body.

This is accomplished by reporting the breakdown of expenditures as required by *UC* 17-31-5.5(3). (See compliance requirement below for the specific breakdown of expenditures.)

Utah Code 17-31-2 provides that:

1. In any county up to 100 percent of the tax may be used to establish, finance, and promote recreation, tourism, film production and conventions.
2. A county may not expend more than 1/3 of the revenues generated by the transient room tax for any combination of the following purposes:
 - a. acquiring, leasing, constructing, furnishing, maintaining, or operating convention meeting rooms, exhibit halls, visitor information centers, museums, sports and recreation facilities (including practice fields, stadiums, and arenas), and related facilities; and acquiring land, leasing land, or making payments for construction or infrastructure improvements;
 - b. as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, or sixth class, to pay for solid waste disposal operations, emergency medical services, search and rescue activities, and law enforcement activities; or
 - c. making the annual payment of principle, interest, premiums, and necessary reserves for bonds related to these activities.
3. If, on or after October 1, 2006, a county legislative body imposes a tax or increases the rate of the tax to a rate that exceeds 3%, the county legislative body may expend revenues generated by that portion of the rate that exceeds 3% for any purposes described in 1 and 2 above, without any of the restrictions in 2 above.
4. The county may issue bonds for the allowable purposes. However, the annual payments on the bonds, including interest, premiums, and necessary reserves, may only be made in the proportions as outline above.
5. The county may create a reserve fund so that any funds collected by the tax but not expended during any fiscal year shall not revert to the general fund, but shall be retained in a special fund to be used for the purposes outline above. See *Utah Code* 17-31-2(1), (2), and (3) for details.

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Subject: General Compliance Transient Room Tax and Tourism, Recreation, Culture, and Convention Facilities Tax (Counties Only)

Compliance Requirement:

Any county imposing these taxes shall annually engage an independent auditor to do an audit to verify that the transient room tax and tourism, recreation, culture, and convention facilities tax were used only as authorized by law and to report the findings of the audit to the county legislative body. This should be done as part of the regular annual audit.

For calendar years beginning CY 2006, state law requires additional financial reporting of the use (expenditure) of the transient room taxes and the tourism, recreation, culture, and convention facilities taxes. This breakdown of expenditures should be included as an attached schedule to the Independent Auditor's Report on Legal Compliance With Applicable Utah State Laws and Regulations. The auditor should issue an in-relation-to opinion on this schedule. (An example format of this schedule can be found below.)

Utah Code Section 17-31-5.5(3) requires a breakdown of expenditures into the following categories:

Transient Room Tax

Establishing and promoting:

- Recreation
- Tourism
- Film production
- Conventions

Acquiring, leasing, constructing, furnishing, or operating:

- Convention meeting rooms
- Exhibit halls
- Visitor information centers
- Museums
- Related facilities

Acquiring or leasing land required for or related to:

- Convention meeting rooms
- Exhibit halls
- Visitor information centers
- Museums
- Related facilities

Mitigation costs

Payment of principal, interest, premiums, and reserves on bonds

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LEGAL COMPLIANCE AUDIT GUIDE

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Subject: General Compliance Transient Room Tax and Tourism, Recreation, Culture, and Convention Facilities Tax (Counties Only)

Tourism, Recreation, Culture, and Convention Facilities Taxes

Financing tourism promotion
Development, operation, and maintenance of:
 Tourist facilities
 Recreation facilities
 Cultural facilities
 Pledges as security for evidence of indebtedness

Reserves and Pledges

Reserves on bonds related to TRT funds
Pledges as security for evidences of indebtedness related to TRCC

Suggested Audit Procedures:

1. Determine the amount of transient room tax and tourism, recreation, culture, and convention facilities tax collected by the county during the fiscal year.
2. Determine expenditures made from amounts collected.
3. Test a representative sample of those expenditures to determine that they were made only for purposes and in the proportions authorized in *Utah Code* 17-31-2(1),(2), and (3).
4. If the collections exceeded the expenditures during the fiscal year, determine that the remainder was reserved and retained in a special fund and did not revert to the general fund.
5. Determine that the breakdown of expenditures into categories on the schedule attached to the Independent Auditor's Report On Legal Compliance With Applicable Utah State Laws is proper and accurate.
6. Report any findings in the State Legal Compliance report and to the county legislative body.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-15
Page: 1 of 6
Subject: Impact Fees and Other Development Fees

This section addresses compliance requirements related to the *Impact Fees Act* which is codified in the *Utah Code* as *Title 11, Chapter 36a*. The *Impact Fees Act* was intended to impose limitations on the use of impact fees and standardize the procedures of establishing impact fees while still leaving a method for local governments to generate revenues for expanding capacity caused by development and growth. The *Impact Fees Act* applies to all local political subdivisions with the exception of school districts. Impact activities for school districts are governed by Utah Code 53A-20-100.5. Currently there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee.

The *Impact Fee Act* requires private water companies providing culinary water as a condition of development to follow the same requirements as a local political subdivision before implementing impact fee changes. [UC 11-36a-203(1(a))]

Section B below is applicable only to those local political subdivisions which impose impact fees. Section C below is applicable to all local political subdivisions.

A. IMPACT FEE REPORTING REQUIREMENTS:

1. Each county, municipality, and special district shall present an impact fee report which identifies impact fee funds by the year in which they were received, the project from which the funds were collected, the capital projects for which the funds were budgeted, and the projected schedule for expenditure; in a format developed by the state auditor; certified by their financial officer; and transmitted annually to the state auditor. (UC 11-36a-601)

Suggested Audit Procedure:

Determine that a schedule identifying impact fee funds by year in which they were received, the project from which the funds were collected, the capital projects for which the funds are budgeted, and the projected schedule for expenditure has been prepared, certified by the chief financial officer, and sent to the state auditor.

B. IMPACT FEE COMPLIANCE REQUIREMENTS:

1. Authorized Public Facilities

Impact fees may only be imposed for the development of authorized "public facilities" as defined by the *Impact Fees Act*. "Public facilities" means only the following capital facilities that have a life expectancy of ten or more years and are owned or operated by or on behalf of a local political subdivision:

- a. water rights and water supply, treatment, and distribution facilities;
- b. wastewater collection and treatment facilities;
- c. storm water, drainage, and flood control facilities;
- d. municipal power facilities;
- e. roadway facilities;
- f. parks, recreation facilities, open space, and trails; and

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Subject: Impact Fees and Other Development Fees

- g. public safety facilities (excluding jails, prisons, or other places of involuntary incarceration;) or
- h. environmental mitigation as provided in Section 11-36a-205.
(*Utah Code* 11-36a-102 (15))

Local political subdivisions may also impose impact fees for environmental mitigation in accordance with *Utah Code* 11-36a-205.

Suggested Audit Procedure:

Determine whether impact fees are only being charged for authorized public facilities.

2. Impact Fees Facilities Plan

- a. Before imposing an impact fee, the local political subdivision shall prepare a capital facilities plan. The plan shall identify:
 - 1) demands placed upon existing public facilities by new development activity; and
 - 2) the proposed means by which the local political subdivision will meet those demands.
(*Utah Code Section* 11-36a-302 (1)(a,b))
- b. Before adopting the plan, the local political subdivision shall comply with the applicable notice and hearing requirements for the applicable political subdivision. (*Utah Code Section* 11-36a-502 (2))
- c. Before preparing or amending a impact fee facilities plan, a local political subdivision or private entity shall provide written notice of intent to prepare or amend a capital facilities plan. The notice shall:
 - 1) Indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;
 - 2) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and
 - 3) be posted on the Utah Public Notice Website.
(*Utah Code Section* 11-36a-501)

Suggested Audit Procedure:

Determine whether the entity has a impact fee facilities plan. Review the plan to determine whether it contains the required information. Also determine whether the entity complied with the public notice and hearing requirements.

3. Impact Fee Analysis

Each local political subdivision or private entity imposing impact fees shall prepare a written analysis of each impact fee that:

- a. identifies the impact on system improvements required by the development activity;

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- b. identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
- c. estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity; and
- d. based upon the factors and requirements of *Utah Code Section 11-36a*, identifies how the impact fee was calculated.
(*Utah Code Section 11-36a-304*)

Notice of Preparation of an Impact Fee Analysis

Before preparing or contracting to prepare the impact fee analysis required under each local political subdivision or private entity shall post a public notice on the Utah Public Notice Website created under 63F-1-701.
(*Utah Code Section 11-36a-503*)

Certification of Impact Fee Analysis

An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following (*Utah Code Section 11-36a-306*):

“I certify that the attached impact fee analysis:

1. includes only the costs for qualifying public facilities that are;
 - a. allowed under the Impact Fees Act; and
 - b. projected to be incurred or encumbered within six years after each impact fee is paid;
2. contains no cost of operation and maintenance of public facilities;
3. offsets costs with grants or other alternate sources of payment;
4. does not include costs for qualifying public facilities which will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; and
5. complies in each and every relevant respect with the Impact Fees Act.”

Suggested Audit Procedure:

Determine whether the entity has a written analysis of the impact fee. Review the written analysis to determine whether it contains the required information. Also, determine whether the entity complied with the public notice requirements.

4. Impact Fee Enactment

- a. Each local political subdivision wishing to impose impact fees shall pass an impact fee enactment. (*Utah Code Section 11-36a-401(1)(a)*)

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- b. The impact fee imposed by that enactment may not exceed the highest fee justified by the impact fee analysis performed pursuant to *Section 11-36a-402*. (*Utah Code Section 11-36a-401 (1)(b)*)
- c. In calculating the impact fee, each local political subdivision may include:
 - 1) the construction contract price;
 - 2) the cost of acquiring land, improvements, materials, and fixtures;
 - 3) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
 - 4) debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements. (*Utah Code Section 11-36a-305*)
- d. The local political subdivision shall comply with the applicable notice and hearing requirements and shall make a copy of the impact fee enactment available to the public at least 10 days before the date of the public hearing and post notice of the local political subdivision's intent to enact or modify the impact on the Utah Public Notice Website; and shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared on its website or to each public library with the local political subdivision. (*Utah Code Section 11-36a-504*)
- e. The local political subdivision shall ensure that the impact fee enactment contains:
 - 1) a provision establishing one or more service areas within which it shall calculate and impose impact fees for various land use categories;
 - 2) either:
 - a) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or
 - b) the formula that the local political subdivision will use to calculate each impact fee;
 - 3) a provision authorizing the local political subdivision to adjust the standard impact fee at the time the fee is charged to:
 - a) respond to unusual circumstances in specific cases; and
 - b) ensure that the impact fees are imposed fairly; and
 - 4) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the fee based upon studies and data submitted by the developer.
(*Utah Code Section 11-36a-402*)

Suggested Audit Procedure:

Determine whether the entity has an impact fee enactment or ordinance. Review the enactment to determine whether it contains the required information. Ensure the impact fee does not exceed the highest fee justified by the written analysis. Also, determine whether the entity complied with the public notice and hearing requirements and mailed a copy of the impact fee enactment to the required entities.

5. Accounting

Each local political subdivision collecting impact fees shall:

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- a. establish separate interest bearing ledger accounts for each type of public facility for which an impact fee is collected;
- b. deposit impact fee receipts in the appropriate ledger account;
- c. retain the interest earned on each fund or account in the fund or account; and
- d. at the end of each fiscal year, prepare a report on each fund or account showing:
 - 1) the source and amount of all monies collected, earned, and received by the fund or account; and
 - 2) each expenditure from the fund or account; and
- e. produce a report that:
 - 1) identifies impact fees funds by the year in which they were received, the project from which the funds were collected, the impact fee projects for which the funds were budgeted, and the projected schedule for expenditure;
 - 2) is in a format developed by the state auditor;
 - 3) is certified by the local political subdivision's chief financial officer; and
 - 4) is transmitted annually to the state auditor.

This report is a public document and should be available for public inspection during regular office hours. (*Utah Code* 11-36a-601)

Suggested Audit Procedure:

Determine whether the entity is appropriately accounting for and reporting on each of the impact fees. Also determine that the report contains all required elements and has been properly transmitted to the Utah State Auditor's Office. Finally, determine whether the entity is retaining interest earned by the impact fees in the proper accounts.

6. Allowable Expenditures

A local political subdivision may expend impact fees only for:

- a. system improvements for public facilities identified in the impact fees facilities plan; and
- b. system improvements for the specific public facility type for which the fee was collected. (*Utah Code* 11-36a-602(1))

Suggested Audit Procedure:

Determine whether impact fee proceeds were used only for public facilities identified in the capital facilities plan and for the specific public facility type for which the fee was collected.

7. Period of Availability

- a. Except as provided in (b), a local political subdivision shall expend or encumber the impact fees for a permissible use within six years of their receipt.
- b. A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
 - 1) an extraordinary and compelling reason why the fees should be held longer than six years; and

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Subject: Impact Fees and Other Development Fees

- 2) an absolute date by which the fees will be expended.
(*Utah Code 11-36a-602(2)*)

Suggested Audit Procedure:

Determine whether the entity has a system of controls to ensure impact fee proceeds are expended or encumbered within six years. Determine whether the impact fee proceeds were used in a timely manner and that reasons for holding fees longer than six years were appropriate and documented.

8. Refunds

A local political subdivision shall refund any impact fees paid by a developer, plus interest earned, when:

- a. the developer does not proceed with the development activity and has filed a written request for a refund;
- b. the fees have not been spent or encumbered within 6 years; and
- c. no impact has resulted.

(*Utah Code 11-36a-603*)

Suggested Audit Procedure:

Determine whether the entity has appropriately refunded any unused impact fees.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-16
Page: 1 of 2
Subject: General Compliance Asset Forfeiture

1. Compliance Requirement:

30 days after seizure, the entity must prepare a detail inventory of all property seized and transfer the seized property to a designated official within the agency, who shall be responsible for holding and maintaining seized property pending a court order of release or final determination of forfeiture and disposition of property. (*Utah Code 24-1-4*)

Suggested Audit Procedure:

Determine if the entity has a system of controls in place to ensure that seized assets are properly inventoried and transferred to the proper official within the agency.

2. Compliance Requirement:

Proceeds from the forfeited property and forfeited monies through state forfeitures shall be deposited (with the State) in a restricted account in the general fund called the Criminal Forfeiture Restricted Account. The amount deposited shall be reduced by the seizing agency's direct costs and expenses, as approved by the court of obtaining and maintaining the property pending forfeitures; and pay the legal costs to the prosecuting agency for the prosecution of the forfeiture proceeding. (*Utah Code 24-1-17*)

Suggested Audit Procedure:

Determine if the entity properly deposited forfeited property and forfeited monies with the State in the Criminal Forfeiture Restricted Account. Also determine if the amount held by the entity in-order to cover costs associated with obtaining and maintaining the forfeited assets is reasonable and not excessive.

Relating to forfeited monies granted back to the entity as part of the Crime Reduction Assistance Program.

3. Compliance Requirement:

For each fiscal year, any state, local, or multi-jurisdictional agency or political subdivision that received a program award shall prepare, and file with the Utah Commission on Criminal and Juvenile Justice and the State Auditor, a report in a form specified by the Utah Commission on Criminal and Juvenile Justice. The report shall include the following regarding each award: the agency's name; the amount of the award; the date of the award; how the award has been used; and a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that: the agency or political subdivision has complied with all inventory, policy, and reporting requirements of this chapter; all program awards were used for crime reduction or law enforcement purposes specified in the application; and only upon approval or appropriation by the agency's or political subdivision's legislative body. (*Utah Code 24-1-19*)

Suggested Audit Procedure:

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Subject: General Compliance Asset Forfeiture

Determine if the entity has accurately completed the required report and has properly submitted the report with the Utah Commission on Criminal and Juvenile Justice and the Utah State Auditor.

4. Compliance Requirement:

Follow-up on any other audits/ reviews performed by any government entity relating to asset forfeitures at the agency.

Suggested Audit Procedure:

Determine if any other audits/ reviews have been performed by any government entity relating to asset forfeitures at the agency. Review the issued report and determine if any findings have been implemented.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: GC-17
Page: 1 of 4
Subject: Utah Retirement System Compliance

TYPES OF AGREEMENTS: Retirement Benefits

TYPES OF RECIPIENTS: Public Employees

SOURCE OF AUTHORIZATION AND REGULATIONS: Utah Code Title 49

INFORMATION CONTACT: Kim Kellersberger, 801-366-7457
Rob Dolphin, 801-366-7429

A. Program Objectives:

The Utah Retirement Systems are established by state statutes and are intended to provide a meaningful retirement benefit to employees who have chosen a career in public service.

B. Program Procedures:

The Utah Retirement Systems operates as governmental tax-qualified defined benefit plans described in section 401(a) of the Internal Revenue Code of 1986.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

None

2. ELIGIBILITY

Compliance Requirement:

In *Revenue Ruling 2006-43*, the IRS clarified its rules governing employer “pick-up” (member contributions paid by employer) elections to require a “formal” action (e.g. minutes of a meeting, a resolution or ordinance) to effect its pick-up election(s). In light of this guidance and increased governmental plan enforcement activity by IRS, the auditor should ensure that the entity has formally elected a “pick-up”. The election is made via each employer’s annual certification of its contribution rates. Sample resolution: “Be it therefore resolved that the [entity] formally agrees to pick up X% of the required member contribution for all eligible employees required to contribute to the Utah Retirement Systems Contributory Retirement Plan for periods on or after [insert date].”

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Subject: Utah Retirement System Compliance

Suggested Audit Procedure:

If the governmental entity participates in any of the following systems: the Public Employees Contributory Retirement System, the Public Safety Contributory Retirement System, and/or the Firefighters' Retirement System and if the employer is paying the member contribution or a portion of it:

Verify that there is documentation authorizing employer "pick-up". The documentation includes an annual "formal" action in writing (e.g. minutes of a meeting, a resolution, or ordinance) adopted by persons authorized to amend the governing laws and is effective for a specified period to effect the employer pick-up election.

Compliance Requirement:

All eligible employees who qualify for membership in the Utah Retirement Systems (URS) are required to be enrolled immediately. There is no choice of whether or not an eligible employee should be enrolled in URS unless the employee qualifies to be exempt from retirement coverage. Employee exemption is not automatic. It is the employer's responsibility to inform employees of their right to exempt from URS.

Eligibility rules vary by retirement system:

- Tier 1 Public Employees Noncontributory Retirement System (*Utah code 49-13-201*)
- Tier 1 Public Employees Contributory Retirement System (*Utah code 49-12-201*)
- Tier 1 Public Safety Contributory Retirement System (*Utah code 49-14-201*)
- Tier 1 Public Safety Noncontributory Retirement System (*Utah code 49-15-201*)
- Tier 1 Firefighters Retirement System (*Utah code 49-16-201*)
- Tier 2 Public Employees Contributory Retirement System (*Utah code 49-22-201*)
- Tier 2 Public Safety and Firefighter Contributory Retirement System (*Utah code 49-23-201*)

Suggested Audit Procedure:

1. Determine if the entity has a system of controls and policies and procedures in place to ensure that eligible employees are enrolled in the Utah Retirement Systems immediately and that exempt employees are notified of their right to exemption. (Discuss controls with payroll clerk or human resource personnel).
2. Determine if controls are adequate for add/removals changes throughout the year for membership eligibility and service credit.
3. Select a sample of employees from the payroll register for eligibility compliance.

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Subject: Utah Retirement System Compliance

Compliance Requirement:

Employer certification procedures must include the use of URS on-line tools to identify current employment eligibility of the employee in regards to Tier 1 or Tier 2 eligibility and Post Retirement employment status.

The auditor should ensure that the employer is accurately identifying the retirement system eligibility and employment status of all employees.

Suggested Audit Procedure:

1. Determine if the entity has a system of controls, policies, and procedures in place to ensure that employers are using URS on-line tools to determine the Tier 1 or Tier 2 retirement eligibility or to identify employees in a retired status with URS.
 2. Determine if controls are adequate to determine membership eligibility and establish proper contribution reporting.
 3. Select a sample of newly hired employees for compliance testing.
3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None

4. REPORTING REQUIREMENTS

Compliance Requirement:

If an eligible member of the Utah Public Employees Retirement System receives no salary while on leave of absence, it may impact retirement service credit. The leave of absence may be due to:

- a) Military leave (*Utah code 49-11-402*)
- b) Family medical leave
- c) Sabbatical leave
- d) Receiving workers' compensation
- e) Short-term disability

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Subject: Utah Retirement System Compliance

The auditor should ensure that the employer is maintaining accurate records and informs the Utah Retirement Office, in writing, of the dates the leave of absence begins and ends and is accurately reporting service credit contributions for employees out on leave, if applicable.

Suggested Audit Procedure:

1. Determine if the entity has a system of controls and policies and procedures in place to ensure that employers are maintaining accurate records relating to leave of absence by its employees and is notifying the retirement office of the beginning and ending dates of leave. (Discuss controls with payroll clerk or human resource personnel).
 2. Determine if controls are adequate for membership eligibility and service credit.
 3. Select a sample of employees on leave of absence for compliance testing.
5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None

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Reference: GC-18
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Subject: Fund Balance

Compliance Requirement:

Appropriations in the final budgets may not be made for any fund in excess of the estimated expendable revenues for the budget year. In other words, deficits in any fund are illegal. (*Utah Code* 17-36-17; 10-6-117; 10-5-114; & 17B-1-613).

Counties, municipalities, and other governmental units may accumulate fund balances in any fund. However, the unrestricted (Unassigned, Assigned, and Committed) portion of the general fund must be within the following limits:

Counties: The maximum unrestricted general fund balance may not exceed an amount equal to the greater of:

- the estimated total revenue from property taxes for the current fiscal period, or
- for a county with a taxable value of \$750,000,000 or more and a population of 100,000 or more, 20% of the total revenues of the General Fund for the current fiscal period; or for any other county, 50% of the total revenues of the General Fund for the current fiscal period. (*Utah Code* 17-36-16)

Utah Code 17-36-17 further requires a minimum fund balance of 5% of the total general fund revenues to be maintained and not budgeted.

Cities: *Utah Code* 10-6-116(4) indicates that only the “fund balance in excess of 5% of total revenues of the general fund may be utilized for budget purposes.” The remaining 5% must be maintained as a minimum fund balance. The maximum in the general fund may not exceed 18% of the total estimated revenue of the general fund. (10-6-116(2)) For cities, the total estimated revenue of the general fund is next year’s total general fund budgeted revenue minus any beginning fund balances appropriated.

Towns: Some towns find themselves with a deficit fund balance in one or more of their funds. The State Auditor has taken the position that a deficit, created by expenditures being made in excess of those budgeted, is an illegally created debt in violation of the Utah Constitution, Section XIV(3). As such, the total illegally created deficit should be budgeted to be made up in the following fiscal year. Deficits arising from emergencies are not illegal and may be retired over 5 years. Maximum in the general funds may not exceed 75% of the total estimated revenue of the general fund. (10-5-113(2)) For towns, the total estimated revenue of the general fund is next year’s total general fund budgeted revenue minus any beginning fund balances appropriated.

School Districts: There is no limitation on school district fund balances except for amounts designated to meet unexpected and unspecified contingencies. Such “undistributed reserves” may not exceed 5% of the maintenance and operations budget. (53A-19-103(1))

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Subject: Fund Balance

Local and Special Service Districts: Section 17B-1-612 of the *Utah Code* allows districts to accumulate earnings or fund balances, as appropriate, in any fund. With respect to the general fund only, the maximum unrestricted fund balance is restricted to the following: The greater of:

- a. 100% of the current year's property tax; or
- b. 25% of the total general fund's revenues, if the annual general fund budget is greater than \$100,000 or 50% of the total general fund's revenues, if the annual general fund budget is equal to or less than \$100,000.

Utah Code 17B-1-613 requires a minimum fund balance of 5% of the total general fund revenues be maintained and not budgeted.

Suggested Audit Procedure:

Review the entity's fund balance(s) to determine:

1. If any are in a deficit position.
2. Make a calculation, based upon the above outlined restrictions, to determine if the entity's general fund balance is within legal limits.

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State Office of Education (SOE):

Minimum School Program	SOE-1
School Building Program	SOE-2
Driver Education	SOE-3
Locally Generated Taxes & Fees	SOE-4

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Reference: SOE-1
Page: 1 of 14
Subject: Minimum School Program, Utah State Office of Education (USOE),
Division of Business Services, School Finance Section

TYPES OF AGREEMENTS: Allocated per *Utah Code* Formulas

TYPES OF RECIPIENTS: School Districts, Charter Schools, Regional Services Centers, etc.

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* Title 53A

INFORMATION CONTACT: Cathy Dudley 538-7667 – Finance
Von Hortin 538-7670 – Audit

EFFECTIVE DATE: Year Ending 30 June 2011

A. PROGRAM OBJECTIVES

The objective of the Minimum School Program is to provide reasonably equal educational opportunities for all children in the State of Utah regardless of where they live or their economic status. This *Compliance Audit Guide* applies to the 2010-2011 school year.

B. PROGRAM PROCEDURES

Minimum School Program funds are allocated to school districts and charter schools by the School Finance and Statistics Section of the USOE based on formulas provided by the Minimum School Finance Act and State Board of Education administrative rules. The largest share of funds use allocations based on average daily membership and fall enrollment. Some allocations are based on fixed or competitive grant application.

1. CATEGORIES OF SCHOOL PROGRAMS

Compliance Requirements:

The Minimum School Program provides funding for most educational activities. The descriptions for these programs can be found at the following website:

<http://www.schools.utah.gov/finance/Minimum-School-Program/MSP-Descriptions.aspx>

There are seven major categories of school programs within the Minimum School Program:

- a. **Regular Basic School Programs** – The funds received for the following programs are basically unrestricted and can be used for any educational purpose.

Kindergarten – To support educational services for students in kindergarten.

Grades 1-12 – To support educational services for students in grades 1 through 12. Example: supplies, personnel, textbooks.

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Foreign Exchange Students – To support the educational services for students enrolled under an interstate compact or a student receiving services under the Compact on Placement of Children.

Necessarily Existent Small Schools – To assist small schools that are located in remote areas and are therefore expensive to operate.

Professional Staff – To support local education agencies (LEAs) in recruiting and retaining highly educated and experienced educators for instructional, administrative, and other types of professional employment in public schools. Example: signing bonus, retention bonus, and advertising.

Administrative Costs – To support school districts – especially school districts with small enrollments – in maintaining administrative resources. Example: audits, reports, postage, technology.

- b. **Restricted Basic School Programs** – The funds received for the following programs must be expended specifically for the program(s) designated.

Special Education – Regular Program – Add-on – To provide additional educational services for students with disabilities as required by federal law. Example: Special Education personnel, texts, supplies.

Special Education – Self Contained – To compensate for the higher cost of providing more extensive educational services to students who are in a self contained setting (enrolled in special education for 180 minutes or more each day). Unlike resource students, self contained students do not generate a “regular” WPU.

Special Education – Preschool – To provide preschool educational services for children with disabilities from ages 3 through 5 as required by federal law.

Extended Year for Severely Disabled – To provide a longer school year for those students with disabilities whose regression over school breaks is so severe that an inordinate amount of time is necessary to recoup previous learning.

Special Education – State Programs – To support school districts and charter schools in serving special education students whose extensive needs cost the school district or charter school more than \$15,000 per student.

Career and Technical Education (CTE) – Add-On – To compensate for the higher cost of state approved CTE courses provided either directly by school districts and charter schools or through external providers on contract to school districts. Example: supplies, textbooks, personnel.

Career and Technical Education – Set Aside – To continue high priority CTE programs or to purchase equipment needed to initiate new CTE programs.

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Class Size Reduction – To reduce the size of classes or maintain smaller classes in grades Kindergarten through 8. Example: personnel.

- c. **Related to Basic Programs** – The funds received for the following programs are for transportation and other programs specified by state legislature.

Pupil Transportation To and From School / Guarantee on Special Transportation Levy – To support school districts for the transportation of students to and from school, including the training of school district transportation personnel and replacement of school buses.

Flexible Allocation – WPU Distribution – New in 2011, the legislature appropriated a flexible source of funding for school districts and charter schools to assist in managing budget reductions. Currently these funds are not designated for a specific purpose.

Interventions for Student Success Block Grant – To improve the academic performance of students who do not meet performance standards as determined by U-PASS test results; interventions must be consistent with a school district or charter school plan approved by the local school board, and the plan must specify intended results. Example: remedial class, supplies, texts, personnel.

Charter School In Lieu of Local Funding (Local Replacement) – Established to provide revenue to charter schools to assist in general educational and capital facility needs. This funding is intended to replace some of the locally generated property tax revenue charter schools cannot access.

Charter School Administrative Costs – To support charter schools in maintaining administrative resources. Example: audits, reports, postage, technology.

- d. **Special Populations** – The funds for these programs are distributed based on approved RFPs or formulas and must be spent within the respective special populations. Special populations include Highly Impacted Schools, At-Risk programs, Adult Education, Accelerated Learning programs, Concurrent Enrollment, High Ability Student Initiative, and English Language Learner Literacy Centers.
- e. **Other Minimum School Programs** – The funds distributed for these programs are mostly unrestricted or can be used for educational purposes related to programs such as school land trust, reading achievement, extended year for special educators, USTAR centers, educator salary adjustments, etc.
- f. **Leeway Programs** – The funds received for these programs are based on specific leeway formulas. Voted leeway proceeds are to be expended for general fund (maintenance and operation) purposes only. Board leeway proceeds are to be expended for class size reduction or other duly authorized purposes as set forth by statute.
- g. **One-Time Programs** – These funds are to finance programs such as classroom supplies and materials and the Beverley Taylor Sorenson Elementary Arts Learning Program.

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Other state funding can be classified as non-MSP programs:

- h. **Other State Programs** – Other state programs include capital outlay foundation (dealt with in SOE-2, School Building Program), state liquor control tax (considered state matching funds for the federal National School Lunch Program), state driver training tax (dealt with in SOE-3, Driver Education), and U-PASS Administration.

2. RISK-BASED AUDIT APPROACH

The school programs within the Minimum School Program can be divided into three groups: state major programs, unrestricted, and restricted.

“State major programs” are defined in the introduction of the *State of Utah Legal Compliance Audit Guide*. The capital outlay foundation, a school program within the Minimum School Program, is considered a separate state program and should be considered a major program when revenues or expenditures exceed \$350,000 in the current year (see SOE-2).

“Unrestricted” school programs have few compliance requirements or are not structured for specific program testing. Unrestricted school programs include the following school programs within the Minimum School Program:

- K-12
- Foreign Exchange Students
- Necessarily Existent Small Schools
- Professional Staff
- Administrative Costs
- Flexible Allocation – WPU Distribution
- Charter School Local Replacement
- Charter School Administrative Costs
- Educator Salary Adjustments
- Voted Leeway Program

“Restricted” school programs are those school programs within the Minimum School Program that are to be used for those specific purposes outlined in Utah statute. These programs are to be evaluated for risk and tested for compliance on a rotating basis.

The risk-based approach requires the following:

- a. Calculate the total expenditures of restricted school programs expended during the year.
- b. Select which restricted school programs to test.
 - 1) *Significant restricted programs* (those programs with expenditures totaling 3% or more of the calculated total) must be selected at least once every three years. If a significant restricted program is new to the school district or charter school in the current year, it should be selected in the current year because it was not selected in one of the prior two

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years. Also, a program that reaches the 3% threshold for the first time and has not been selected in one of the prior two years must be selected in the current year.
[For audits of years ending June 30, 2010 and 2011 (the first two years of this requirement), the requirement to select significant restricted programs at least once every three years is suspended; however, at least one third of the significant restricted programs are to be selected each year during this transition period. Each significant restricted program should have been selected at least once in audits of years ending June 30, 2010, 2011, and 2012.]

- 2) Restricted programs designated as high risk by the State of Utah Office of Education or for which there were audit findings in either of the preceding two years must be selected in the current year.
- 3) A *cluster of programs* is a grouping of closely related restricted programs that share common compliance requirements. Two clusters (Special Education and Career and Technical Education) have been identified. These clusters of restricted programs should be treated as one program when determining which programs to select.

The Special Education cluster includes the following school programs within the Minimum School Program:

- Special Education – Regular Program – Add-On
- Special Education – Self Contained
- Special Education – Preschool
- Extended Year Severely Disabled
- Special Education – State Programs
- Extended Year Special Educators
- Special Education Maintenance of Effort (MOE)

The Career and Technical Education cluster includes the following school programs within the Minimum School Program:

- Career and Technical Education (CTE) Add-On
- Career and Technical Education – Set Aside
- CTE Maintenance of Effort (MOE)

- 4) The combined amount of expenditures for the restricted programs selected must be equal to or greater than 25% of the calculated total of all restricted programs. Therefore, additional programs may need to be selected to meet the required percentage of coverage. These additional programs are selected by the auditor, using professional judgment and considering risks of noncompliance.
- c. Identify compliance requirements for unrestricted and restricted school programs.
- 1) Tests for compliance for unrestricted school programs are included with the suggested general audit procedures for the Minimum School Program in this *Compliance Audit Guide*.

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- 2) Suggested tests for compliance for common restricted programs are provided in this *Compliance Audit Guide*. Tests for compliance for restricted programs not included in this *Compliance Audit Guide* can be determined by consulting applicable state laws and rules and state program administrators.
- d. The auditor should document the risk assessment process used in determining restricted programs selected. When the determination of restricted programs selected is performed and documented by the auditor in accordance with this *Compliance Audit Guide*, the auditor's judgment in applying the risk-based approach is presumed correct. However, the State of Utah Office of Education may provide the auditor with guidance about the risk of a particular program, which the auditor should consider when determining programs to select for testing.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

Suggested General Audit Procedures (consider annually):

Trace the flow of funding for each individual program to the final disposition.

- a. Trace the entity's reconciliation of program activities from reports prepared by USOE (project allotment memorandums, recipient reports, and school district summary or charter school summary reports) to the entity's records and reports (general ledger, program revenue and expenditure reports, claims for reimbursement, financial statements, Annual Program Report, and Annual Financial Report).
- b. Verify that program balances agree with prior-year and current-year ending balances on reports prepared by the entity. (For each program, the entity's reconciliation should include beginning receivable or deferred program balance, receipts, expenditures, adjustments, and ending receivable or deferred program balance.) The attached Sample State and Federal Revenue Reconciliation worksheet could be used.

Unrestricted school programs:

K-12, Foreign Exchange Students, Necessarily Existent Small Schools, Administrative Costs, Flexible Allocation – WPU Distribution, Charter School Administrative Costs, Charter School Local Replacement (portion not spent on facilities-related costs) and Voted Leeway Program – These funds are fairly broad in their use and discretion. No specific tests of compliance are provided here for these funds. The auditor is reminded that he or she should consider the entity's internal control over compliance and obtain sufficient appropriate audit evidence to form an opinion and report on whether the entity complied in all material respects with the applicable compliance requirements of the Minimum School Program. The auditor should also consider indications of abuse.

These funds are to be used to support educational and administrative activities of the entity. Compliance requirements of these funds include the following: allowable activities, allowable costs, equipment management, procurement, and reporting. The auditor could select samples from these programs and test for compliance. The auditor could also consider

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procedures performed in the audit of the financial statements or other areas as long as those procedures represent sufficient evidence to form an opinion.

Procedure – Document your consideration of the entity’s control over compliance with the applicable requirements of the Minimum School Program. Select samples of costs charged to these funds and test for compliance or document your consideration of how audit procedures performed in other areas support an opinion on whether the entity complied in all material respects with the applicable compliance requirements of the Minimum School Program.

Professional Staff – These funds are intended to support the hiring and retention of instructional staff with advanced degrees and for teaching in subjects where staff would be considered highly qualified.

Procedure – Obtain a copy of the salary schedule or agreed upon salaries for the year and a sample of personnel files for instructional staff and verify that teachers with advanced degrees receive higher compensation than teachers with bachelor’s degrees. Also verify that teachers are teaching in subjects where they either majored in college or in which they have obtained further licensure/endorsements since graduation. Allowable costs include signing and retention bonuses and advertising.

Charter School Local Replacement – At least ten percent of this program is to be used for facilities-related costs; the remainder is unrestricted.

Procedure – Verify that at least ten percent of this program is used for facilities-related costs.

Educator Salary Adjustments – These funds are appropriated by the Utah Legislature to give an on-going salary adjustment to each qualifying educator and school administrator employed by the school district or charter school. A qualifying educator means a person employed by a school district or charter school who holds a license and a position as a classroom teacher, speech pathologist, librarian or media specialist, preschool teacher, mentor teacher, teacher specialist or teacher leader, guidance counselor, audiologist, psychologist, or social worker. A school administrator means persons employed by the school district or charter school who are “licensed educators, which hold an Administrative/Supervisory area of concentration, who serve as formal leaders at each school site. Duties include items such as school safety, budget, building operations and maintenance, teacher quality, student achievement, parent and community relations, core instruction, and extracurricular activities. Principals, assistant principals and administrative interns are included in this definition” (see CACTUS Educator Categories – 4/26/2010 at the following site:

http://www.schools.utah.gov/curr/main/Core_Codes/documents/CACTUSEducatorCategories.pdf).

Salary adjustments are to be the same for each full-time qualifying position; a person who is not in a full-time qualifying position receives a partial salary adjustment based on the number of hours the person works in a qualifying position. Salary adjustments may be awarded only to qualifying employees who have received a satisfactory rating or above on their most recent

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evaluation. Educator salary adjustments can include costs for the following employer-paid benefits: retirement, worker's compensation, Social Security, and Medicare.

Procedure – Select a sample of persons whose salary has been charged to this program and verify that these employees are currently employed in a qualifying position and who have received a satisfactory rating or above on their most recent evaluation. Also, review employer-paid benefits charged to the programs for allowability.

Suggested Specific Audit Procedures for Common Restricted School Programs (consider for each restricted program selected for testing):

Verify that the funds were expended appropriately.

- a. Identify the allowable activities and costs for each selected program.
- b. Select samples of expenditures from each selected program and perform procedures and tests to verify that activities were allowable and transactions were properly classified and accumulated into the activity totals. Ensure adjustments are included as part of the sample when performing these procedures and tests.
- c. Select samples of expenditures from each selected program and perform procedures and tests to determine that direct charges to programs were for allowable costs. (The criteria affecting the allowability of costs include whether the costs are reasonable and necessary; allocated in accordance with relative benefits received; are given consistent treatment; conform to any limitations established by State laws or administrative rules; are supported with appropriate documentation; represent charges for actual costs, not budgeted or projected amounts; are net of all applicable credits; and are calculated in conformity with generally accepted accounting principles. See OMB Circular A-87 for governments or OMB Circular A-122 for nonprofit organizations for guidance on cost principles.)
- d. Perform procedures and tests to verify that indirect cost rates were applied in accordance with approved rate limitations and guidelines.

Common restricted school programs and related compliance procedures:

Special Education Cluster – Special education programs are to provide *additional* or *special* services to students with disabilities. For example, students participating in the state special education add-on program qualify for one WPU of regular classroom funding and one additional WPU for state special education add-on funding. Accordingly, costs charged to special education programs are for services performed in addition or supplementary to regular services that are provided in the regular classroom, such as aids, program modifications, and support that are provided in conjunction with regular classroom instruction. Costs can also be for special classes, resource room or itinerant instruction, related supplies, testing, specialists, and direct supervision of special education services.

These funds are restricted. Funds may be spent only for direct costs. Indirect costs are not allowable.

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Allowable direct costs for approved programs for students with disabilities are published in the USOE Special Education Rules (Rules), beginning on page 201, located at <http://www.schools.utah.gov/sars/DOCS/law/finalrules.aspx>. Unallowable direct costs are also listed in the Rules, beginning on page 203.

The school district or charter school is to ensure that current year expenditures in its state special education programs are equal to or greater than the level of those expenditures of the preceding year. Certain exceptions apply. See the Rules, beginning on page 190, regarding maintenance of effort. Special education maintenance of effort is the amount of local funds or state unrestricted sources that must be added to the program each year.

Procedure – Obtain either class rolls or inquiry access to the student information system (SIS) and verify that students enrolled in special education programs have been included in the December 1 count of students used to drive the special education funding. An alternative step would be to review the criteria used by the school district or charter school to identify students as having disabilities to qualify them for inclusion in the December 1 count. [Note that the funding is determined by the level of service required by the student and that the LEA may not inflate the level of service required in order to generate additional funds. Programmatic compliance reviews are conducted to ensure students receive only the level of service (and therefore funding) that is required to implement their Individualized Educational Plan.] Select a sample of costs charged to state special education programs and test for allowability. Ensure that costs for regular classroom instruction have not been included with or allocated to state special education programs. [Although a regular education teacher of a student with a disability is a member of the individualized education program (IEP) team and participates in the development of the IEP of the student or reviews the IEP of the student that participates in the general education classroom, none of the regular education teacher's personnel costs can be allocated to a special education program. Note that special education services and aids that provide incidental benefit to nondisabled children may be allowable. The costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a student with a disability in accordance with the IEP of the student are allowable, even if one or more nondisabled students benefit from these services.]

Ensure the special education maintenance of effort as calculated by the Data and Finance Specialist within the Special Education section at the Utah State Office of Education is recorded as special education program revenue.

Career and Technical Education (CTE) Cluster – These funds are designated to encourage classes in technical education. Funding for these classes is only available to students in grades 9-12. Some school districts may allow students of lower grades to participate in these classes; however students from these lower grades may not be counted towards membership for CTE purposes.

CTE maintenance of effort as calculated by the Utah State Office of Education located at <http://www.schools.utah.gov/cte/documents/funding/AllocationMOE11.pdf> must be added to the program. The CTE maintenance of effort can be from local funds or state unrestricted sources.

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Procedure – Obtain a copy of the class listings, preferably with either the grade or birthdates and verify that students fall within the acceptable grades for CTE funding or that their information is correct within the Student Information System.

Ensure the CTE maintenance of effort is recorded as CTE program revenue.

Class Size Reduction – These funds are to be used to reduce class size in any or all grades kindergarten through eighth grade. Fifty percent of the funds must be used to reduce class size in any one or all of grades kindergarten through grade two, with an emphasis on improving student reading skills. If the average class size of a school district or charter school is below 18 in grades kindergarten through two, it may petition the state board for a waiver of the fifty percent requirement. Twenty percent of the funds may be used for capital facilities projects that help reduce class size. If student population increases by five percent or 700 students from the previous school year, the school district or charter school may use up to fifty percent of its funds for classroom construction.

This funding is to supplement any other appropriation for class size reduction.

Although not required, it is recommended the entity maintain a list of educators and related benefits paid from this funding.

Procedure – Verify that at least fifty percent of the allocation is used to reduce class size in any one or all of grades kindergarten through grade two, unless a waiver has been granted. Select a sample of costs charged to this program for allowability (personnel and related benefit costs for qualifying classroom teachers and facility costs for qualifying classroom projects). Verify that funding is used to supplement other class size reduction programs.

Pupil Transportation To and From School – Two primary sources of student transportation funding are available to school districts: pupil transportation (state) and special transportation levy (local). Procedures are to be performed by the auditor to verify that costs charged transport students are allowable.

Allowable costs include costs to transport students (function 2700). Transportation and maintenance costs for administrative or other purposes should not be charged to these funding sources.

Procedure – The auditor should select a sample of expenditures charged to student transportation programs and test the sampled items for allowability (see also UCA 53A-17a-127). Compare total costs recorded for student transportation (as reported on the AFR for function 2700 and the APR for the two programs).

Interventions for Student Success Block Grant – These funds are intended to be used for improving student achievement.

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Procedure – Verify that a plan was approved by the Local school board by examining the minutes and the plan and verify that the uses are consistent with the plan as presented to the local school board.

School LAND Trust program – These funds are sent to school districts and charter schools for school community councils and trust land committees to develop a plan and expend funds to improve academic excellence (see *Utah Code 53A-16-101.5(5)*).

Procedure – Verify that school plans were approved by the local board of education. Test expenditures to see they were made after board approval. Test expenditures for allowability and compliance with the approved plan and budget categories set forth in the plan. Board-approved plans can be viewed at <http://www.schoollandtrust.org/schools/program-plans>. See Administrative Rule R277-477 for specific allowable costs.

Classroom Supplies and Materials – These funds are sent from the legislature for teachers to use in the classroom. There is a formula which differentiates amounts by teacher based upon elementary or secondary assignment as well as the number of years of teaching experience.

Procedure – Obtain a listing of the amounts allocated by teacher. Verify that either 1) reimbursements are occurring based upon receipts being turned in or 2) that the school district or charter school is including the amounts paid to teachers in their W-2 wages.

Reading Achievement – This program was created to achieve the state’s goal of having third graders reading at or above grade level. Within the Reading Achievement program three funding programs have been created: Base Level, Guarantee Program, and Low Income Students Program. The school district or charter school must submit a State Board approved plan for reading proficiency improvement prior to using program funds.

Procedure – Review approved plan and test related expenditures for allowability of use of program funds.

USTAR Centers (Year-Round Math & Science) – The Utah Science Technology and Research Initiative (USTAR) Centers program is created to provide a financial incentive for school districts and charter schools to adopt programs that result in a more efficient use of human resources and capital facilities. A school district or charter school is to use USTAR funds only for full-year teacher contracts, part-time teacher contract extensions, or combination of both, and for math and science teachers. Up to 5% of program monies may be used to fund math and science field trips, textbooks, and supplies.

Procedure – Test program expenditures for allowability. Review program results and ensure no more than 5% of program expenditures are used for math and science field trips, textbooks, and supplies.

Extended-Day Kindergarten – This program provides at least the same number of instructional hours per school year as first grade or additional instruction hours that are outside the regular school year, including summer programs.

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Procedure – Ensure that allocated funds are used to establish extended-day kindergarten in the schools with the greatest need as measured by the percentage of students eligible for free lunch.

Adult Education – Compliance with Adult Education requirements are tested under the agreed-upon procedures requirements of Appendix C-6 of the *State of Utah Legal Compliance Audit Guide*.

Procedure – Test program expenditures for allowability. Ensure the program revenues include equal matching funds; ensure program revenues are not used to supplant existing programs.

At Risk – Regular – This program’s purpose is to reduce the achievement gap between demographic subgroups. A student at risk means any student who, because of his individual needs, requires some kind of uniquely designed intervention in order to achieve literacy, graduate, and be prepared for transition from school to post school options. According to Administrative Rule R277-760, a school district shall use program funds consistent with the “master plan for services for students at risk.”

Procedure – Obtain an understanding of allowable expenditures and test program expenditures for allowability.

At Risk – Youth in Custody – This program provides educational services to persons under the age of 21 who are in the custody of the Department of Human Services, an equivalent agency of a tribe recognized by the Bureau of Indian Affairs, or a juvenile detention facility.

Procedure – From the school district’s funding application, obtain an understanding of allowable expenditures. Test expenditures for allowability in accordance with that application.

D. ELIGIBILITY

Compliance Requirement:

Minimum School Program funds are distributed to school districts, charter schools, schools for the deaf and blind, and state colleges and universities. Eligibility and reimbursement for specific programs are based on weighted pupil units, average daily membership, various formulas, and basic rate property tax proceeds.

Suggested Audit Procedure:

The audit procedures for the (USOE) Financial and Program Reports are addressed in part E below. The Fall Enrollment (October 15th Data Clearinghouse File) and Student Membership (July 15th Data Clearinghouse File) Reports are tested through agreed-upon procedures as addressed in Appendix C-5. Adult Education procedures are tested through agreed-upon procedures as addressed in Appendix C-6.

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E. REPORTING REQUIREMENTS

Compliance Requirements:

Each school district and charter is required to submit the following reports to the Utah State Office of Education by these due dates:

<u>Report</u>	<u>Due Date</u>	<u>Reference</u>
Data Clearinghouse File Update as of Prior Year End	July 7	R277-484-3(D)(4)
Aggregate Membership procedures *	September 15	R277-419-3(D)
Adult Education procedures *	September 15	
Annual Financial and Program Reports (AFR/APR)	October 1	53A-3-404
Data Clearinghouse File Update as of October 1	October 15	R277-484-3(H)
Fall Enrollment and Transfer Student Documentation procedures *	November 1	R277-419-3(D)
Negotiations Reports	November 1	53A-1-301(3)(d)(vi)
Audited Financial Statements - Schools Districts	November 30	53A-3-404A
Audited Financial Statements - Charter Schools	November 30	53A-1A-507(4a)
Reconciliation between AFR and Audited Financial Statements (if allowable differences exist)	November 30	
Minimum School Program schedule	November 30	
Child Count of Students with Disabilities (SCRAM)	December 1	

* Prepared by independent accountant

Suggested Audit Procedures:

Ensure that the reports are filed in a timely manner. Perform testwork sufficient to ensure that the following requirements are satisfied:

- a. The Student Membership (July 7th Data Clearinghouse File) and the Fall Enrollment (October 15th Data Clearinghouse File) Reports must be tested through agreed-upon procedures between the school district or charter school, the independent accountant, and the State Office of Education. Additional guidance for the agreed-upon procedures can be found in Appendix C-5 of the *State of Utah Legal Compliance Audit Guide*.
- b. The (USOE) Annual Program Report should agree to the (USOE) Annual Financial Report. School districts prepare these reports using the same method of accounting employed by each of its individual funds. Charter schools are to prepare these reports using the “modified accrual basis of accounting” which is the method of accounting employed by governmental funds in a local government and as defined by the Governmental Accounting Standards Board.
- c. The school district’s or charter school’s annual financial audit must be performed in accordance with *Government Auditing Standards* and, when applicable, OMB Circular A-133. The annual audited financial statements of the school district or charter school must be

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prepared in accordance with generally accepted accounting principles. See Administrative Rule R277-425-4.

The (USOE) Annual Financial Report should agree to the audited financial statements. Errors should be reported to the Utah State Office of Education as soon as possible. If allowable differences between the AFR and the audited financial statements exist (for example, differences in the basis of accounting or differences in the presentation of funds or activities), a detailed reconciliation of the differences should be submitted to USOE.

- d. A Minimum School Program (MSP) schedule is to be submitted to USOE, in the Excel format, that identifies the classification of school programs within the MSP, significant restricted programs selected for testing by the independent auditor in the current and prior two years, and the percent of restricted school programs tested.

See the attached Sample Minimum School Program (MSP) Schedule.

- e. For school districts, interfund transfers must be in accordance with *Utah Code, Section 53A-19-105*. Except as authorized, interfund transfers are prohibited.
- f. For school districts, an undistributed reserve balance or use must be in accordance with *Utah Code, Section 53A-19-103*. Also, an undistributed reserve may not exceed 5% of the general fund's budgeted expenditures per Administrative Rule R277-425-4. The purpose of the reserve is to meet unexpected and unspecified contingencies.

District/Charter: **Sample School District**
 CY End: **June 30, 2011**

Enter current year amounts
 Enter prior year amounts

Revenue Code	Program Number	Revenue Number	Program	PY Balances		USOE Allotment Memo			Adjustments / Other Receipts	Available	Revenue	CY Balances	
				Receivable	(Deferred Revenue)	"Old"	"New"					Receivable	(Deferred Revenue)
				June 30, 2010	June 30, 2010	PY July Current	CY July Current	CY July YTD				June 30, 2011	June 30, 2011
Federal Programs						+	-	+	+	=			
06	7862	4862	Math Science PHP 84.366	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07	7870	4870	Tech Literacy Challenge 84.318	-	-	-	-	-	-	-	-	-	-
08	7801	4801	Federal Title I 84.010	-	-	-	-	-	-	-	-	-	-
09	7890	4890	Safe & Drug Free 84.186	-	-	-	-	-	-	-	-	-	-
12	7801	4801	School Improvement Grants 84.377	-	-	-	-	-	-	-	-	-	-
13	7840	4840	Title I - Neglected & Delinquent 84.013	-	-	-	-	-	-	-	-	-	-
15	7830	4830	Ch 1 - Child Migrant Work 84.011	-	-	-	-	-	-	-	-	-	-
19	7524	4524	IDEA-B-Disabled 84.027	-	-	-	-	-	-	-	-	-	-
21	6043	4538	Vocational Education Basic 84.048	-	-	-	-	-	-	-	-	-	-
21	6047	4546	CTE Leadership 84.048	-	-	-	-	-	-	-	-	-	-
28	7950	4950	Homeless Child Education Grant 84.196	-	-	-	-	-	-	-	-	-	-
33	7581	4581	Adult Education Act - Prisons/Institutions 84.002	-	-	-	-	-	-	-	-	-	-
33	7583	4583	Adult Education Act - ABE 84.002	-	-	-	-	-	-	-	-	-	-
33	7584	4584	Adult Education Act - EL/Civics 84.002	-	-	-	-	-	-	-	-	-	-
41	8073	4573	Special Milk Program 10.556	-	-	-	-	-	-	-	-	-	-
42	8071	4571	National School Lunch Program 10.555	-	-	-	-	-	-	-	-	-	-
			National School Lunch Program - Commodities 10.555	-	-	-	-	-	-	-	-	-	-
43	8072	4572	Special Assistance Program 10.555	-	-	-	-	-	-	-	-	-	-
44	8074	4574	School Breakfast 10.553	-	-	-	-	-	-	-	-	-	-
47	8075	4575	CACFP Food Service 10.558	-	-	-	-	-	-	-	-	-	-
48	8077	4577	Summer Food Service 10.559	-	-	-	-	-	-	-	-	-	-
51	8079	4579	Fresh Fruit and Vegetables 10.582	-	-	-	-	-	-	-	-	-	-
52	7522	4522	IDEA-B-Preschool Disabled 84.173	-	-	-	-	-	-	-	-	-	-
53	7603	4603	Serve America 94.004	-	-	-	-	-	-	-	-	-	-
54	7625	4625	Charter Schools 84.282	-	-	-	-	-	-	-	-	-	-
60	7910	4910	After School/Community Learning Center 84.287	-	-	-	-	-	-	-	-	-	-
72	7810	4810	Reading First 84.357	-	-	-	-	-	-	-	-	-	-
73	7880	4880	Title III - English Language Acquisition 84.365	-	-	-	-	-	-	-	-	-	-
74	7860	4860	Title II A - Improving Teacher Quality 84.367	-	-	-	-	-	-	-	-	-	-
81	7870	4870	Collections	-	-	-	-	-	-	-	-	-	-
90	7920	4920	Title VI - Admin 84.298	-	-	-	-	-	-	-	-	-	-
9A	7664	4664	ARRA IDEA 84.391	-	-	-	-	-	-	-	-	-	-
9B	7667	4664	ARRA IDEA Pre-School 84.392	-	-	-	-	-	-	-	-	-	-
9C	8080	4661	ARRA Child Nutrition Equipment 10.579	-	-	-	-	-	-	-	-	-	-
9E	7662	4662	ARRA Title I - Grants to Schools 84.389	-	-	-	-	-	-	-	-	-	-
9F	7665	4662	ARRA School Improvement 84.388	-	-	-	-	-	-	-	-	-	-
9G	7650	4650	ARRA McKinney Vento Homeless 84.387	-	-	-	-	-	-	-	-	-	-
9M	7661	4661	ARRA MSP Stabilization Funds 84.394	-	-	-	-	-	-	-	-	-	-
9N	7669	4661	Educaton Jobs Fund 84.410	-	-	-	-	-	-	-	-	-	-
9T	7670	4662	ARRA Tech Literacy Challenge 84.386	-	-	-	-	-	-	-	-	-	-
			Less: Basic levy and MOE from local sources	-	-	-	-	-	-	-	-	-	-
Totals				\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total State and Federal						-	-	-					
Recipient totals from MSP Monthly Allotment reports						-	-	-					
Proof - should be zero						-	-	-					

Include state and federal programs received from all sources. Totals should agree with entity's books, audited financial statements, district/charter summary, annual financial report (AFR), and annual program report (APR)

Utah State Office of Education
Minimum School Program (MSP) Schedule
Instructions

This schedule identifies the classification of school programs within the MSP, significant restricted programs that were selected for testing for compliance in the current and prior two years, and the percent of restricted school programs tested. Please refer to guidance provided in SOE-1 of the *State of Utah Legal Compliance Audit Guide*.

School programs within the Minimum School Program can be classified into three groups:

- S - Separate state programs
- U - Unrestricted
- R - Restricted

A *cluster of programs* is a grouping of closely related restricted programs that share common compliance requirements. A cluster should be treated as one program.

The capital outlay foundation, a school program within the MSP, is considered a separate state program and should be considered a major program when revenues or expenditures exceed \$350,000 in the current year (see SOE-2).

Unrestricted school programs have few compliance requirements or are not structured for specific program testing. Each year, the auditor should consider applying suggested general audit procedures to unrestricted school program funds received or spent by the district or charter school.

A significant restricted program (a program with expenditures totaling 3% or more of total restricted programs) must be selected for testing as least once every three years. Also, a program that has reached the 3% threshold for the first time and has not been selected in one of the prior two years must be selected for testing in the current year. See SOE-1 for exception in 2010 and 2011. Also, restricted programs designated as high risk by USOE or for which there were reportable audit findings in either of the preceding two years must be selected in the current year for testing.

Only school programs within the MSP should be included on the schedule. These programs are listed as Revenue "99" programs on the MSP Monthly Allotment. Local and state maintenance of effort (MOE) amounts for Special Education and CTE should be included on the schedule. Programs such as State Liquor Control Tax and State Driver's Education are other state appropriations would not be included on this schedule.

Program expenditures on the schedule should agree with amounts reported on the APR.

The independent auditor of the district or charter school can use this schedule for planning and documentation of school programs selected for compliance testing.

This schedule is to be submitted to Von Hortin [Von.Hortin@schools.utah.gov] at the USOE by Nov 30.

District / Charter: **Sample District**
 Current Year Ended June 30, 2011
 Minimum School Program Schedule
 Prepared By:
 Date Prepared:

School Program	Expenditures	Group	3%	Cluster *	Significant Restricted Programs		
					PY 20__	PY 2010	CY 2011
K-12	129,267,169	U					
Foreign Exchange Students	87,618	U					
Necessarily Existent Small Schools	-	U					
Professional Staff	12,016,760	U					
Administrative Costs	-	U					
District's Contributions to Local Replacement Funds	(891,142)	U					
Flexible Allocation - WPU Distribution	18,317,748	U					
Voted Leeway	5,219,378	U					
Educator Salary Adjustments	14,568,795	U					
Special Education Cluster:							
Special Education - Regular Program - Add-On	15,253,804	R	Yes	SpEd		X	
Special Education - Self Contained	3,221,809	R	Yes	SpEd		X	
Special Education - Preschool	2,543,284	R	Yes	SpEd		X	
Extended Year Program Severely Disabled	106,270	R		SpEd		X	
Special Education - State Programs	313,781	R		SpEd		X	
Extended Year Special Educators	185,370	R		SpEd		X	
Special Education Maintenance of Effort	50,000	R		SpEd		X	
CTE Cluster:							
Career and Technology Education - Add-On	6,862,303	R	Yes	CTE			X
Career and Technology Education - Set-Aside	-	R	Yes	CTE			X
CTE Maintenance of Effort	6,217,701	R	Yes	CTE			X
Class Size Reduction	10,417,578	R	Yes				
Pupil Transportation	7,137,506	R	Yes				
Interventions for Student Success Block Grant	1,419,521	R					
At-Risk Student Programs (Regular)	556,781	R					
At-Risk Homeless and Minority	92,827	R					
At-Risk Youth-In-Custody	1,162,997	R					X
Adult High School	391,358	R					
Accelerated Learning Gifted and Talented	218,525	R					
Accelerated Learning Advanced Placement	231,718	R					
Accelerated Learning Concurrent Enrollment	477,053	R					
School Nurses	94,072	R					
Library Books and Electronic Resources	50,792	R					
Critical Languages Program	50,600	R					
School LAND Trust Program	2,490,706	R	Yes				X
Reading Achievement Program	1,497,680	R					
ELL Family Literacy Centers	78,868	R					
USTAR Centers	300,000	R					
Board Leeway	1,304,845	R					
Instructional Technology	90,000	R					
Classroom Supplies and Materials	1,004,705	R					
Extended Day Kindergarten	499,389	R					
Dual Immersion Program	-	R					
BTS Elementary Arts	118,350	R					
Total Minimum School Program	243,026,519					21,674,318	16,733,707
Unrestricted programs	(178,586,326)						
Restricted programs	<u>64,440,193</u>						
3% of restricted programs	1,933,206						
25% required annual minimum coverage	16,110,048					33.6%	26.0%

S State program; major if \$350,000 or more
 U Unrestricted program; general audit procedures considered annually
 R Restricted program
 Yes Meets 3% rule; significant restricted program
 SpEd Special Education cluster
 CTE Career and Technology Education cluster
 X Selected for specific audit procedures in year indicated
 * All programs within a cluster should be treated as one program

District / Charter: **Sample Charter**
 Current Year Ended June 30, 2011
 Minimum School Program Schedule
 Prepared By:
 Date Prepared:

School Program	Expenditures	Group	3%	Cluster *	Significant Restricted Programs		
					PY 20__	PY 2010	CY 2011
K-12	3,804,347	U					
Professional Staff	205,436	U					
Flexible Allocation - WPU Distribution	437,902	U					
Charter School Local Replacement	2,131,311	U					
Charter School Administrative Costs	147,700	U					
Educator Salary Adjustments	294,257	U					
Special Education Cluster:							
Special Education Add-On	554,055	R	Yes	SpEd			X
Special Education Self Contained	85,041	R	Yes	SpEd			X
Extended Year Program Severely Disabled	2,159	R		SpEd			X
Special Education State Programs	313,781	R	Yes	SpEd			X
Extended Year Special Educators	3,700	R		SpEd			X
Special Education Maintenance of Effort	-	R		SpEd			X
CTE Cluster:							
Career and Technology Education Add-On	30,892	R		CTE		X	
Career and Technology Education Set-Aside	10,000	R		CTE		X	
CTE Maintenance of Effort	26,316	R		CTE		X	
Class Size Reduction K-8	220,784	R	Yes			X	
Interventions for Student Success	29,767	R					
At-Risk Student Programs (Regular)	14,198	R					
At-Risk Homeless and Minority	1,516	R					
Accelerated Learning Gifted and Talented	5,387	R					
Accelerated Learning Advanced Placement	2,121	R					
Accelerated Learning Concurrent Enrollment	14,845	R					
School Nurses	2,190	R					
Library Books and Electronic Resources	1,087	R					
Critical Languages Program	6,000	R					
School LAND Trust Program	59,938	R	Yes			X	
Reading Achievement Program	67,759	R	Yes			X	
Classroom Supplies and Materials	22,683	R					
Extended Day Kindergarten	32,607	R					
Total Minimum School Program	8,527,779					415,689	958,736
Unrestricted programs	(7,020,953)						
Restricted programs	1,506,826						
3% of restricted programs	45,205						
25% required annual minimum coverage	376,707					27.6%	63.6%

S State program; major if \$350,000 or more
 U Unrestricted program; general audit procedures considered annually
 R Restricted program
 Yes Meets 3% rule; significant restricted program
 SpEd Special Education cluster
 CTE Career and Technology Education cluster
 X Selected for specific audit procedures in year indicated
 * All programs within a cluster should be treated as one program

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-2
Page: 1 of 2
Subject: School Building Program, Utah State Office of Education (USOE),
Division of Business Services, School Finance Section

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: School Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 53A-21*

INFORMATION CONTACT: Cathy Dudley - 538-7667
Von Hortin – 538-7670
Sean B. Thomas – 538-7802

EFFECTIVE DATE: Year Ending 30 June 2011

A. PROGRAM OBJECTIVES:

The objective of the School Building Program is to provide financial assistance to school districts and charter schools for the purpose of capital outlay, debt service, construction, and renovation (*Utah Code 53A-21-102(1) and 401(1)(a)*).

B. PROGRAM PROCEDURES:

The USOE determines the eligibility of school districts for participation and then distributes program funds in accordance with the statute and State Board of Education Administrative Rule.

The School Building Program assists school districts with capital outlay bonding, construction, and renovation in the following ways:

- 1) Grants to school districts who qualify for the **Capital Outlay Foundation Program** and **Enrollment Growth Program** (*Utah Code 53A-21-102; 53A-21-202; 53A-21-301; 53A-21-501*). The State Board of Education determines amounts to allocate to qualifying school districts based on
 - a. Average daily membership (ADM),
 - b. October 1 enrollment counts,
 - c. The combined capital outlay and debt service rate imposed by the school district, and
 - d. Prior year derived valuations in the school district for the period from April 1 through March 31.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-2
Page: 2 of 2
Subject: School Building Program, Utah State Office of Education (USOE),
Division of Business Services, School Finance Section

- 2) Interest-bearing loans from the **School Building Revolving Account** to school districts (*Utah Code 53A-21-401*).

USOE may not allocate funds from the School Building Revolving Account that exceed a school district's bonding limits minus its outstanding general obligation bonds.

To qualify for interest-bearing loans, a district must meet the following criteria:

- a. Send a loan application letter to the Director of School Finance and Statistics.
 - b. Levy a tax of at least .0024 for capital outlay and debt service.
 - c. Contract with the State Superintendent of Public Instruction to repay the monies with interest at a rate established by the state superintendent, within five years of their receipt, using future state building monies or local revenues or both.
 - d. Levy sufficient ad valorem taxes to guarantee annual loan repayments, unless the State Superintendent of Public Instruction alters the payment schedule to improve hardship situations.
 - e. Meet any other condition established by the State Board of Education pertinent to the loan. (*Utah Code 53A-21-401(3)*)
- 3) The **Charter School Building Subaccount** shall be used to make loans to charter schools to pay for costs of planning expenses, constructing or renovating charter school buildings, equipment and supplies, or other start-up or expansion expenses (*Utah Code 53A-21-401(5)*). The term of the loan may not exceed five years.
- 4) **Supplemental appropriations.**

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

Compliance Requirements

School districts may only use the monies provided to them under the foundation and loan programs for school district capital outlay and debt service purposes (*Utah Code 53A-21-102*). Charter schools may only use the monies provided to them under loan program for expenses as outlined (*Utah Code 53A-21-401(5)*).

Suggested Audit Procedure:

Ensure that the school district or charter school has expended foundation or loan program proceeds in accordance with provisions of *Utah Code*.

Review loan activities and ensure repayment and other loan provisions are being satisfied.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-3
Page: 1 of 4
Subject: Driver Education, Utah State Office of Education (USOE),
Planning and Project Services, Educator Licensing, and Personnel Development

TYPES OF AGREEMENTS: Allocated per *Utah Code*

TYPES OF RECIPIENTS: School Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 53A-13-201 through 207
Administrative Rule Section R277-746

INFORMATION CONTACT: Gail L. Johnson 538-7779
Specialist, Program Approval/Driver Education

EFFECTIVE DATE: Year Ending 30 June 2011

A. PROGRAM OBJECTIVES:

The objectives of the Driver Education Program in Utah are to provide funds to local school districts to help cover the actual cost of providing driver education training and to develop student knowledge, attitudes, habits and skills necessary for the safe operation of motor vehicles, including a proper acceptance of personal responsibility in traffic and a true appreciation of the causes, seriousness and consequences of traffic accidents.

B. PROGRAM PROCEDURES:

The USOE prescribes rules for driver education courses in the public schools. The USOE reimburses certain costs for each school district that maintains driver education classes that conform to the rules prescribed by the State Board of Education. The reimbursement amount may not exceed \$100 for each student who has completed such a standard driving course during the school year. The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

1. \$100 per student who has completed driver education during the school year.
2. \$30 per student who has only completed the classroom portion in the school or through the electronic high school during the school year; or
3. \$70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

A student who completes the course and does not pass, may retake the course a second time. The program may then receive an additional \$100 reimbursement for the repeat student.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-3
Page: 2 of 4
Subject: Driver Education, State Office of Education (USOE), Planning and Project Services, Education Licensing, and Personnel Development)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

A school district shall finance the costs of its driver education program solely from student fees and reimbursements and allocations from USOE. No other funds can be used to subsidize driver education. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations from USOE. In determining the cost of its driver education program, the school district may exclude the cost of a teacher for a driver education class taught during regular school hours and classroom space and classroom maintenance.

Suggested Audit Procedure:

Ensure that the school district has claimed reimbursement for the behind-the-wheel costs of the driver education program. Review student fees to ensure that the fees are reasonably associated with the costs of driver education that are not otherwise covered by the reimbursements and allocations from USOE. Ensure fees are properly handled and recorded. Ensure the district has not subsidized its driver education program from other sources.

Compliance Requirement:

A school district maintaining driver education classes shall allow pupils enrolled in private schools located within the school district to enroll in driver education classes under the same terms and conditions as applied to students in public schools.

Suggested Audit Procedure:

Ensure that the school district has policies which allow private school students to participate in driver education classes as required.

Compliance Requirement:

A course of behind-the-wheel driving shall include a minimum of six clock hours of instruction in a dual-control automobile under the direction and supervision of a qualified instructor. Up to three hours of this requirement may be fulfilled by use of driving ranges and simulators, with a limitation of one hour for simulators that are not fully interactive, in accordance with formulas prescribed by Board rule.

Suggested Audit Procedure:

Determine if the school district has policies and procedures to ensure that students receive the required behind-the-wheel driving experience and/or substitutions in accordance with State Board Administrative Rule R277-746.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-3
Page: 3 of 4
Subject: Driver Education, State Office of Education (USOE), Planning and Project Services, Education Licensing, and Personnel Development)

Compliance Requirement:

Following are the requirements regulating adult driver education programs:

- a. Classroom instruction shall include a minimum of eighteen clock hours. Behind-the-wheel instruction shall include a minimum of six clock hours of actual practice driving. Observation shall include an additional six clock hours.
- b. All instruction is to be given by a qualified driver education instructor. Teachers must meet the same standards as those required for regular high school instructors.
- c. All school-sponsored driver education classes for adults should be administered through the school district's adult education division.
- d. Fees levied for those who take the adult driver education course should not exceed the cost of the program.

Suggested Audit Procedures:

- a. Determine if the school district has policies and procedures to ensure that adult driver education students receive the required behind-the-wheel driving experience, and/or substitutions in accordance with USOE policy.
- b. Determine if the school district has policies and procedures that comply with the other requirements enumerated above.
- c. On a test basis, determine if the school district complies with these rules by examining adult education records documenting student participation, teacher qualifications, etc.
- d. Perform a gross analysis comparing the cost of the adult driver education courses to the fees collected from students participating in the courses. Determine if the fee charged is less than or equal to the cost of providing the program.

2. ELIGIBILITY

Compliance Requirements:

- a. Local school districts may establish and maintain driver education classes for pupils enrolled in grades ten to twelve, inclusive. Districts and schools are allowed to make the decision when they feel it is best for their students to take the driver education course. Legally, a student may begin behind-the-wheel instruction at age 15 years. However, a student cannot begin the procedure of acquiring a regular operator's license until he/she is 16 years old and has held a Learner Permit for a minimum of six months.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-3
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Subject: Driver Education, State Office of Education (USOE), Planning and Project Services, Education Licensing, and Personnel Development)

- b. In order for a high school dropout to be claimed under the driver education reimbursement program, provisions of the law require the following procedures to be met:
 - i. A signed statement by the student declaring his/her intent to complete the requirements for a high school diploma.
 - ii. A signed statement by an authorized school official declaring that the courses for which the student is enrolled qualify for adult high school credit.
- c. Only those adults who are enrolled in adult high school completion programs and have declared their intent to complete requirements for a high school diploma may be submitted by the school district for reimbursement from state driver education funds.

Suggested Audit Procedure:

Determine if the school district has policies and procedures to ensure that reimbursement is claimed for costs only for those persons who meet the eligibility standards. On a test basis, determine if costs claimed for reimbursement were for persons meeting the eligibility requirements.

3. REPORTING REQUIREMENTS

Compliance Requirements:

Reimbursement will be determined by information contained in the July Data Clearinghouse Report.

Suggested Audit Procedure:

Determine if the information contained in the Data Clearinghouse Report is accurate. Ensure that the amounts reported agree to the school district's student records.

4. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The Utah State Office of Education and school districts must retain records for audit and evaluation for five years after each annual report is submitted.

Suggested Audit Procedure:

Determine if the school district has retained records of its driver education program for five years by examining records for the previous five years.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-4
Page: 1 of 8
Subject: Locally Generated Taxes & Fees, Utah State Office of Education (USOE),
 Division of Business Services, School Finance Section

TYPES OF AGREEMENTS: Allocated per *Utah Code* Formulas

TYPES OF RECIPIENTS: School Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* Title 53A

INFORMATION CONTACT: Cathy Dudley 538-7667 – Finance

EFFECTIVE DATE: Year Ending 30 June 2011

A. PROGRAM OBJECTIVES

To ensure property tax and related fee revenue is correctly levied, recognized in the proper year, and allocated to the appropriate fund. Also to ensure property tax and related fee revenue is expended as allowed by state law. This section of the Legal Compliance Audit Guide applies to the FY10-11 school year.

B. PROGRAM PROCEDURES

Tax Levies – “Current Taxes”. Property taxes are determined by applying a levy or tax rate to the taxable value of real property within a district. The county in which the district resides collects and distributes the tax to the district.

Districts can levy taxes based on up to thirteen different available tax rates. All districts must levy the basic rate in order to qualify for receipt of the state contribution toward the basic program. Each levy is assigned to a specific district fund as follows:

<u>Levy</u>	<u>Assigned fund</u>
Basic	General fund
Voted leeway	General fund
Board leeway	General fund
K-3 reading	General fund
Special transportation	General fund
Tort liability	General fund
Community recreation	Non K-12 programs fund
Debt service	Debt service fund
Capital outlay	Capital projects fund
Voted capital leeway	Capital projects fund
Ten percent of basic	General fund (for portion spent on textbooks and supplies) and capital projects fund (for all other purposes)
Public law 81-874	General fund
Judgment recovery	Each fund based on related levies (basic levy excluded from judgment recovery allocation in tax year 2009 and earlier)

Receipts of property taxes should be allocated to each assigned district fund based on current-year property tax rates.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-4
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Subject: Locally Generated Taxes & Fees, Utah State Office of Education (USOE),
Division of Business Services, School Finance Section

Tax Sales and Redemptions – “Delinquent Taxes”. Tax sales and redemptions and related penalties and interest are collections of delinquent real property taxes. Although these collections can be allocated to the district’s funds using the rates that were in effect when the tax was originally levied, tax sales and redemptions received by the district are normally allocated to each assigned district fund based on current-year tax rates (similar to how current taxes are allocated).

Fee-in-Lieu of Taxes and Other Tax-Related Revenues. Motor vehicle fees, personal property taxes, and other tax-related items are distributed by counties to taxing entities within the county in the same proportion in which revenue collected from property taxes are distributed. Collections of fees and other tax-related items should be allocated to each assigned district fund based on current-year tax rates (similar to how current taxes are allocated).

Revenue Recognition of Taxes. Governmental funds recognize property tax revenue when it is received from the county with the following modifications:

Counties normally disburse collected taxes to taxing entities by the tenth day of the following month. Accordingly, taxes received during July would be recognized in the preceding fiscal year (or in the period when the county collects them).

Some property owners prepay taxes that are due November 30; prepaid taxes are to be deferred and recognized in the year for which the taxes are levied. Accordingly, receipts of “current” taxes from January to June are recorded as revenue in the subsequent fiscal year.

Interest Earnings on Taxes Held By the County. If significant, interest earned on tax balances held by the county should be allocated to each fund in proportion to how current property taxes are allocated. Such earnings should be reported as interest earnings rather than as property tax revenue.

Allocation of Earnings on Cash and Investments. Earnings on cash and investment balances, if significant, should be recorded in the fund that earned the revenue. When cash and investment balances of funds are pooled and invested by the district, the earnings on the pooled assets should be allocated to the funds based on the average balance of each participating fund. Accordingly, the use of investment earnings in each fund is restricted to the purposes of the fund. For example, investment earnings recorded in the debt service fund are restricted to payment of general obligation bond principal and interest.

Capital Outlay Enrollment Allocation. Beginning January 1, 2009, a local school board in a first-class county must impose a capital outlay levy of at least .0006. Collections from this levy will be distributed by the county to the districts within the county based on student fall enrollment counts and growth. Although the source of the allocation was from a capital outlay levy, the character of the revenue has changed and should be considered as separate funding from the county rather than as regular property tax revenue. Thus, the enrollment allocation from the county would be excluded from the property tax revenue allocations described above. The funding, however, is restricted for capital outlay.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: SOE-4
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Subject: Locally Generated Taxes & Fees, Utah State Office of Education (USOE),
 Division of Business Services, School Finance Section

If a district imposes a levy exceeding the .0006 rate, the county will distribute the revenue generated from the portion of the levy in excess of the .0006 rate to the district that imposed the excess. This revenue continues to be capital outlay property tax revenue.

Adjustments to Tax Revenue. Two adjustments can affect tax revenue.

1) Per UCA 53A-1a-513, a district's contribution to local replacement funds for charter schools can be recorded as an adjustment to one or more of the following revenue sources:

Unrestricted revenues

Listed tax levies (voted leeway, board leeway, ten percent of basic, tort liability, capital outlay, and voted capital outlay leeway)

The debt service levy is excluded from the list of available revenue sources.

2) Eligible tax judgments (plus interest) are paid by the district from property tax revenue; tax judgments are adjustments to property tax revenue in the period the judgments are paid.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

Each district is required to assess a local Basic Tax rate of 0.001495 to be used for operation and maintenance of schools. In addition, a district may levy twelve other tax rates. A complete listing of required and optional tax levies is as follows:

	<u>Ceiling</u> ¹	<u>Utah Code Citation</u>
Basic Levy	.001495 ²	53A-17a-135, 59-2-902, 903, 905, 906 & 924
Voted/Board Leeway	.002000 ³	53A-17a-133 & 134; 59-2-904
Reading Achievement Board Leeway	.000121 ⁷	53A-17a-151
Capital Outlay	.002400 ⁴	53A-16-107; 11-14-310
Ten Percent of Basic	Formula	53A-17a-145
Debt Service	Voter approval	11-14-310; 53A-17a-145
Voted Capital Leeway	.002000	53A-16-110
Tort Liability	.000100	63G-7-704
Special Transportation	.000300 ⁵	53A-17a-127
Community Recreation	None	11-2-7
Public Law 81-874 (Federal Impact Aid - Title VII)	.000800	53A-17a-143
Judgment Recovery	Varies by Judgment ⁶	53A-16-111; 59-2-102, 918.5, 924, 1328 & 1330

¹ A taxing entity may impose a tax rate in excess of the maximum levy permitted by law if the rate

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: Locally Generated Taxes & Fees, Utah State Office of Education (USOE),
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generates revenues that are less than the revenues that would be generated under the certified tax rate [59-2-914(3)(a)].

² 53A-17a-135(1)(a), (b) and (c) provide that the State Tax Commission will certify and adjust the basic rate on or before June 22 to generate \$273,950,764 for Fiscal Year 2010-11.

³ The amount of state aid guarantee money to which a school district would be otherwise entitled under the Voted/Board Leeway programs may not be reduced as a consequence of changes in the certified tax rate pursuant to changes in property valuation. This applies for a period of five years following any such change in the certified tax rate [53A-17a-133(3)(d)(i) and (ii) and 53A-17a-134(2)(ii)].

⁴ School districts levying less than the base tax effort rate shall receive proportional funding under the Capital Outlay Foundation program based on the percentage of that base tax effort rate which means the average of the highest combined capital levy rate; and the average combined capital levy rate for the school districts state wide. School districts are required, regardless of any limitations which may otherwise exist on the amount of taxes which the school district may levy, to provide for the levy and collection annually of ad valorem taxes without limitation as to rate or amount on all taxable property in the school district fully sufficient to fund general obligation indebtedness [11-14-310].

⁵ House Bill 179 of the 1998 General Session increased the maximum tax rate a school board may levy from 0.000200 to 0.000300 for transporting participating students to interscholastic activities, night activities, and educational field trips approved by the board, for the replacement of school buses [53A-17a-127(6)], transportation of ineligible students to and from school, and hazardous bus routes [R277-600-10]. The 2003 Legislature funded \$500,000 as the state's contribution to the state guarantee established in 53A-17a-127(6). The guarantee is not to exceed 85% of the state average cost per mile, if the school board levies a tax of at least 0.000200. The amount of state guarantee money to which a district would otherwise be entitled may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate. This hold-harmless for the state guarantee applies for two years. House Bill 166 of the 2010 General Session changed the use of the tax revenue of the 0.000300 tax rate to pay for transporting students and for the replacement of school buses.

⁶ Senate Bill 84 of the 2000 General Session clarified eligibility requirements for the imposition of a Judgment Levy. An eligible judgment is a final order or judgment under 59-2-1328 or 59-2-1330 that became final and unappealable no more than 14 months prior to July 22nd of each year and for which the taxing entity's share of the judgment is greater than or equal to the lesser of \$5,000 or two and a half percent of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year [59-2-102(10)]. Because each year stands on its own, judgment levies are not considered part of the total certified tax rate; the effective judgment levy certified tax rate is considered to be zero each year and taxing entities must go through the hearing and notice requirements of 59-2-918.5 each year. If a judgment levy is imposed, all refunds and interest ordered must be paid no later than December 31 of the year in which the judgment levy is imposed [59-2-1328 (3)] Beginning with tax year 2010, or fiscal year ending June 30, 2011, school districts must include the basic tax rate when computing the judgment levy certified tax rate. Judgment levies need to be allocated to all property taxes for the year and should show in individual fund sections.

⁷ Senate Bill 230 of the 2004 General Session created the K-3 Reading Improvement Program to achieve the state's goal of having third graders reading at or above grade level. Each local school board may levy a tax rate of up to .000121 per dollar of taxable value for funding the school district's K-3 Reading Improvement Program created under 53A-17A-150. The K-3 Reading Improvement Program consists of program monies and is created to achieve the state's goal of having third graders reading at or above grade level. The levy authorized is in addition to any other levy or maximum rate, does not require voter approval, and may be modified or terminated by a majority vote of the board. A local school board shall establish its board-approved levy under this section by June 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year.

USES OF THE LOCALLY GENERATED REVENUES

Basic Levy: The basic levy is the local-state shared portion to be used for each district's general fund expenditures.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Voted Leeway: State and local funds received by a district under the voted leeway program are unrestricted revenue and may be budgeted and expended within the general fund as authorized by the local school board.

Board Leeway: These funds must be used for class size reduction unless the local school board complies with certain public notice, hearing, as well as notice and permission requirements from the State of Utah Board of Education.

Reading Achievement Board Leeway: The revenue generated by this levy is to be used to achieve the state's goal of having third graders reading at or above grade level.

Capital Outlay: The local revenue generated from this tax rate may be used for capital outlay and debt service. Subject to certain restrictions, the district has the option to use the proceeds of a maximum of .0002 per dollar of taxable value of the district's annual capital outlay levy for the maintenance of school facilities in the district, i.e., for school building repairs and improvements, not custodial.

A school district that uses the .0002 tax rate option shall maintain the same level of expenditure for maintenance in the current year as it did in the preceding year, plus the annual average percentage increase applied to the general fund budget for the current year, and identify the expenditure of capital outlay funds for the expansion of a maintenance program by a project number to ensure that the funds are expended in the manner intended in accordance with UCA 53A-16-107(2).

Ten Percent of Basic: Districts may establish a levy for non-general obligation debt service, school sites and buildings, capital outlay expenditures, as well as textbooks and supplies.

Debt Service: If a district elects to issue and sell general obligation bonds to finance its building program, the district must levy a debt service tax—which has no ceiling—that will derive at least its general obligation bond principal and interest debt payment annually.

Voted Capital Leeway: The voted capital leeway allows districts to levy a tax rate (up to 0.002000) to generate property tax revenue to buy building sites, build and furnish school facilities or improve school property.

Tort Liability: Districts may invoke a tort liability levy to pay liability insurance premiums, the legal costs to defend the district against claims, settlements or judgments, as well as for actual claims, settlements or judgments against school board members or district employees.

Special Transportation: A local school board may provide for the transportation of students, regardless of the distance from school, from general funds of the district and from a tax rate not to exceed .0003 per dollar of taxable value imposed on the district. Revenue collected from this tax may be used to pay for transporting students and for replacing school buses.

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Community Recreation: Districts may join with municipalities or counties in purchasing or operating recreational facilities—such as playgrounds, athletic fields, gyms and swimming pools—and associated activities. Districts may also levy a recreation levy to fund these facilities and activities.

Public Law 81-874 (Federal Impact Aid – Title VII): A local school board may increase its tax rate to provide an amount equal to the difference between the districts’s anticipated receipts under the entitlement for the fiscal year from Public Law 81-874 and the amount the district actually received from this source for the next preceding fiscal year. The revenues generated from this tax can be used for general fund (maintenance and operation) expenditures.

Judgment Recovery: These revenues are to fund a property tax judgment (plus interest) against the district as a result of a successful appeal of over-collection of property tax.

SUGGESTED AUDIT PROCEDURES:

Ensure that the district levies the Basic Rate of .001495 by confirmation with the county treasurer or the Utah State Tax Commission Certified Tax Rate web site found at the following web site: [http://www.taxrates.utah.gov/\(S\(lyllsvfp24bxgsqum5mvz4jt\)\)/login.aspx](http://www.taxrates.utah.gov/(S(lyllsvfp24bxgsqum5mvz4jt))/login.aspx). Verify that all levies are approved and certified by the State Tax Commission (Property Tax Division).

Verify tax levies are expended for the purpose(s) levied.

Verify collections of property taxes, tax sales and redemptions, and fee in lieu of taxes and other tax-related items are allocated to each fund based on the fund’s prorated share of the total tax levy.

Review allocation of earnings on cash and investment balances in each fund for reasonableness. Average cash and investment balances in each fund can be used as a base for the allocation.

Interfund borrowings of restricted resources are prohibited. When allowable interfund borrowing occurs, ensure reasonable interest is charged to the borrowing fund.

Review any adjustments to property tax revenue in each fund for allowability.

Basic Levy and Voted Leeway – No specific tests are needed. These levies are for unspecified uses and may be applied to any educational program in the general fund.

Board Leeway – Obtain listings of teachers hired through the use of these funds. Verify that proceeds from this levy are used to reduce class sizes. If the board certifies that class sizes are sufficiently low, the proceeds from this levy may be used for any other general fund educational program.

Reading Achievement Board Leeway – Obtain a copy of the reading plan approved by the local school board. Sample and test expenditures of employee and other costs paid from this levy are used as outlined in the reading improvement plan.

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Special Transportation – The tests for this program are to be performed in conjunction with tests of state pupil transportation funding (see SOE-1). Any amounts collected under this levy in excess of the legal uses should be classified as restricted equity in the general fund and special transportation levies in future years should be reduced until the restricted balance has been exhausted.

Tort Liability – Verify that the tort insurance and errors and omissions insurance premiums and other allowable costs were paid from the proceeds of the tort liability levy. Amounts collected in excess of allowable costs should be classified as restricted equity in the general fund and tort liability levies in future years should be reduced until the restricted balance has been exhausted.

Debt Service – Verify that these funds have been used only to pay general obligation debt service principal and interest along with paying agent fees. If the proceeds of this levy exceed the expenses of this fund, the excess should remain in the fund and be available for future debt service.

Ensure the debt service fund balance at year end is not more than necessary. (Under federal tax law, an issuer of tax-exempt bonds can carry forward a reasonable amount not to exceed the greater of a) the earnings on the investment of moneys in the debt service fund or b) one-twelfth of the principal and interest payments on the bonds for the immediately preceding bond year. If the reasonable amount is exceeded, interest earnings may be subject to rebate and the tax exempt status of the bonds may be in jeopardy when the rate of return on the excess is greater than the yield on the bonds.)

The district should anticipate debt service requirements so that little or no balance remains in the debt service fund once the general obligation bonds are paid in full. Once general obligation bond debt is fully retired, a remaining balance in the debt service fund can be transferred to the capital projects fund; no amounts from this levy should ever be transferred to any other fund or at any time other than when the debt service fund is discontinued.

Capital Outlay – Verify these funds were placed in the capital projects fund. Ensure fund expenditures are allowable, i.e., for capital outlay (defined as items that are capital in nature such as land, buildings, improvements, equipment, and other capital assets) and debt service and maintenance projects (see UCA 53A-16-107(2)).

Ten Percent of Basic – Review the uses of these funds. Verify they were used in the appropriate fund. Also, verify the qualifying expenditures in the aggregate; ensure that no categorical funds (restricted federal and state programs) were used in the total expenditure number by which this levy is being justified.

If this entire levy is used for capital outlay in the capital projects fund, no further testing would be needed.

If some of the funds were used to service non-general obligation bond debt, verify that the debt service was for non-general obligation bond debt which was paid from the capital projects fund.

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If some of the funds were used to pay for textbooks and supplies, the amount should be recorded as revenue in the general fund (including a proportional amount of tax-related revenue items, i.e., redemptions, motor vehicle fees, etc.) and the related expenditures should be recorded in the general fund.

Voted Capital Leeway – Review the initiative language for the authorization of this levy. The language should specify both an amount and a term of the levy. Verify that the amount levied and the term are appropriate. Verify that the uses were appropriate and fit within the authorization in the initiative language.

Community Recreation – Verify that these funds are used to satisfy local school board agreements such as athletic program expenditures including coaching salaries, community use of facilities and grounds, operation of public use libraries located in schools, and inter-local agreements on either facilities or programs with other governmental units.

Federal Impact Aid Public Law 81-874 – Currently, no district qualifies to levy this tax rate. When any district does qualify, it must also reduce its basic levy by the amount of this levy. Therefore, it is unlikely any district will assess this levy. If a district attempts to levy this tax, contact the State of Utah Office of Education for further direction.

Judgment Recovery – For judgments involving the district, see the state website at <http://propertytax.utah.gov/careports/recent.html>.

If judgments were issued between December 16 and May 31 and each individual judgment exceeds the lesser of \$1,000 or 1% of the taxable value of the district, the district may be eligible to levy a judgment levy. The district should also be able to show that it meets all the truth-in-taxation requirements for the levy (see UCA 59-2-918.5 and Tax Commission Rule R884-24P-57).

A judgment levy imposed under UCA 59-2-1328 or 59-2-1330 shall be established at a rate which is sufficient to generate only the revenue required to satisfy the known unpaid judgments. (Revenue generated from the judgment levy includes current taxes and an appropriate allocation of tax-related revenue items, i.e., redemptions, motor vehicle fees, etc.) The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

Beginning with tax year 2010, (fiscal year 2010-11), school districts must include the Basic Tax rate when computing the judgment levy certified tax rate.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Department of Community & Culture (DCC):

Community Impact Grants	DCC-1
Community Impact Loans	DCC-2
Critical Needs Housing	DCC-3
Zoos Funding Pass-Through	DCC-4
Community Library Enhancement Funds	DCC-5
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STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-1
Page: 1 of 2
Subject: Community Impact Grants
(DCC, Housing & Community Development Division)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Cities
Counties
Special Service Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 9-4-305*

INFORMATION CONTACT: Keith Burnett, Program Info., 538-8725
Kimberley Schmeling, Fiscal Info., 538-8727

A. PROGRAM OBJECTIVES:

The Permanent Community Impact Fund provides grants or loans to subdivisions of the State which are or may be socially or economically impacted, directly or indirectly, by mineral resource development.

B. PROGRAM PROCEDURES:

An 11-member board allocates Community Impact Funds through the approval of competitive applications. Eligible projects include: a) planning; b) the construction and maintenance of public facilities; and c) the provision of public services.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The Community Impact Board (“CIB”) gives awards to perform a specific project or service. Each award has a contract amount and contract budget which details what is to be done and how the funds are to be spent. The funds can only be spent as detailed in the contract. Funds for projects over \$100,000 are generally placed in escrow. Any interest earned on the award must be spent on the project or returned to the CIB. Entities may request approval from the Board to use unexpended funds or interest for related or unrelated activity. The Board must approve the request before funds are expended.

Suggested Audit Procedures:

- a. Review the award to determine what type of activity was to be performed.
- b. Determine if expenditures have been made as required in the budget. Recipients are allowed a variance of 10% of the total contract amount, but all expenditures must be specifically project related.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-1
Page: 2 of 2
Subject: Community Impact Grants
(DCC, Housing & Community Development Division)

- c. Ascertain that the accounting records have been handled in accordance with generally accepted accounting principles.
- d. Ascertain that interest earned has been spent on the project or that interest was eligible for additional project work as per Board approval.
- e. Ascertain that disposition of unused funds has been approved by DCC.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The Community Impact Board Awards have a contract budget which may or may not list matching funds. Planning grants and studies always require 50% match.

Suggested Audit Procedures:

- a. Determines if the award has a required match.
- b. Review financial records to determine if the match has been met.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The Community Impact Board requires that proper internal control procedures are in place to protect the receipt and expenditure of the CIB award.

Suggested Audit Procedures:

Review the internal control procedures of the agency to determine that there are adequate procedures in place to protect the CIB funds.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-2
Page: 1 of 2
Subject: Community Impact Loans
DCC, Housing & Community Development Division

TYPES OF AGREEMENTS: General Obligation Bonds, Voted and non-voted
Revenue Bonds

TYPES OF RECIPIENTS: Cities
Counties
Special Service Districts

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 9-4-305*

INFORMATION CONTACT: Keith Burnett, Program Information 538-8725
Kimberley Schmeling, Fiscal Info., 538-8727

A. PROGRAM OBJECTIVES:

The permanent Community Impact Fund provides loans to subdivisions of the State which are or may be socially or economically impacted, directly or indirectly, by mineral resource development.

B. PROGRAM PROCEDURES:

An 11-member board allocates Community Impact Funds through the approval of competitive applications. Eligible projects include: a) planning; b) the construction and maintenance of public facilities; and c) the provision of public services. The Community Impact Board ("CIB") gives loans in the form of contracts, general obligation bonds, and voted and non-voted revenues bonds.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The Community Impact Board gives loans to perform a specific project or service. Loans are secured by bonds. A *Notice of Loan Authorization and Conditions* letter issued by the Chairman of the CIB details the terms of the project and the board. Prior to FY '94, the project budget presented in the CIB application was considered the project budget. Beginning in FY '94, a project budget has been included as part of the loan closing documents. Funds can only be spent for the specified project. All funds for the project are escrowed and any interest earned must be spent on the project or returned to the CIB.

Suggested Audit Procedures:

- a. Review the *Notice of Loan Authorization and Conditions* letter and the project budget to determine what type of activity was to be performed.
- b. Determine if expenditures have been made as required in the budget. Recipients are allowed a variance of 10% of the total loan amount, but all expenditures must be specifically project-related.

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LEGAL COMPLIANCE AUDIT GUIDE

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Page: 2 of 2
Subject: Community Impact Loans
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- c. Ascertain that the accounting records have been handled in accordance with generally accepted accounting principles.
- d. Ascertain that interest earned has been spent on the project.
- e. Ascertain that disposition of unused funds has been approved by DCC.

Compliance Requirement:

The *Notice of Loan Authorization and Conditions* details repayment and bond reserve requirements.

Suggested Audit Procedures:

- a. Ascertain that the CIB loan has been properly recorded in the financial records.
- b. Ascertain that the entity is fulfilling bond reserve requirements.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The *Notice of Loan Authorization and Conditions* outlines the sources of funding for the project.

Suggested Audit Procedures:

- a. Determine if all funding sources have contributed the required amounts.
- b. Determine if unused funds have been distributed back to funding agencies in relation to their contribution.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-3
Page: 1 of 3
Subject: Critical Needs Housing
(DCC, Housing & Community Development Division)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Cities, Towns, Counties, Association of Governments, Housing Authorities, non-profit groups

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 9-4-801 through 803
Executive Order signed by Scott M. Matheson 5 June 1984

INFORMATION CONTACT: Jonathan Hardy, Program Info. (801)538-8650
Kimberley Schmeling, Fiscal Info., (801)538-8727

A. PROGRAM OBJECTIVES:

The Critical Needs Housing Fund provides grants or loans for: (1) rehabilitation of low-income housing units; (2) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects; (3) shelters and traditional housing for the homeless; and (4) other activities that will assist in improving the availability or quality of housing in the state for low-income persons (*Utah Code* Section 58-18a-105).

B. PROGRAM PROCEDURES:

The Homeless Coordinating Committee allocates Critical Needs Housing Funds by a competitive application process.

1. *Request for Proposals* are published every March soliciting proposals; the due date is in April. The Homeless Coordinating Committee reviews applications in May and June and allocates funds generally by July 1.
2. Additional general information not specifically covered by the application form should also be furnished to the Department of Community and Culture when such information would be helpful to the Committee in appraising the merits if the project.

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LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-3
Page: 2 of 3
Subject: Critical Needs Housing
(DCC, Housing & Community Development Division)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Loans or grants are made for the following purposes:

- Emergency home repair
- Land acquisition emergency housing
- Housing rehabilitation
- New construction
- Programs for better housing on Indian reservations
- Transitional housing for the homeless
- Group homes
- Emergency shelters
- Battered women's shelters
- Mortgage foreclosure prevention
- Temporary support to new housing authorities
- Special demonstration projects
- Self-help housing
- Home ownership programs
- Housing co-operatives
- Urban homesteading
- Homeless prevention

The contract outlines a specific amount and specific project or service to be performed.

Suggested Audit Procedures:

1. Determine amount of award
2. Determine if the funds have been spent in accordance with the contract budget.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-3
Page: 3 of 3
Subject: Critical Needs Housing
(DCC, Housing & Community Development Division)

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Compliance requirements vary with the applications and/or projects. There is no statutory requirement for a specific matching fund ratio. If matching funds are required, it will be stated on the contract budget.

Suggested Audit Procedures:

1. Determine if the award has a required match.
2. Review financial records to determine if the match has been met.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-4
Page: 1 of 2
Subject: Zoos Funding Pass-Through
(DCC, Housing & Community Development Division)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Utah Zoological Society (Hogle Zoo)
Logan City (Willow Park Zoo)

SOURCE OF AUTHORIZATION AND REGULATIONS: Authorization for DCC to provide pass-through funding to Hogle Zoo and Willow Park Zoo and setting the ratio of funding between the two zoos as established in HB-62 as passed by the 1985 General Session of the Utah Legislature. Total funding level is set in the DCC annual appropriation.

INFORMATION CONTACT: Keith J. Burnett, Program Info. 538-8725
Kimberley Schmeling, Fiscal Info., 538-8727

A. PROGRAM OBJECTIVES:

The pass-through provides funding for the operations and maintenance of the Hogle Zoo in Salt Lake City and the Willow Park Zoo in Logan.

B. PROGRAM PROCEDURES:

Upon execution of a mutually agreed to contract and submission of an invoice by the grantees, the Division of Housing and Community Development will provide the grantees with the contract sum in two or more payments.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The funds provided to grantees under the contracts will be utilized solely for operations and maintenance of zoos in question, and no administrative costs incurred by the grantees will be paid with said funds. These administrative costs include: accounting, advertising, auditing, dues and publications, lease expense, legal, office supplies, postage administrative and clerical expenses including salaries and benefits, telephone, and fire and casualty insurance.

Suggested Audit Procedures:

Review operating and maintenance expenditures to insure they are equal or higher than the grant amount.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-4
Page: 2 of 2
Subject: Zoos Funding Pass-Through
(DCC, Housing & Community Development Division)

2. ELIGIBILITY

Compliance Requirements:

Utah Zoological Society and Logan City are the only eligible applicants. Auditor does not have to make test of eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

None.

4. REPORTING REQUIREMENTS

Compliance Requirements:

The following reports are required:

- a. Monthly Financial Reports - submitted not later than fifteen (15) days after the end of each month in a mutually agreed to format.
- b. Final Financial Report - submitted not later than August 31, in a mutually agreed to format.
- c. Grantees shall have conducted (at their expense) an independent audit. This audit will be prepared and filed with DCC within 90 days after the end of the fiscal year or contract period and will include an opinion as to whether the grantees' expenditure statement has been prepared in accordance with the provisions of the contract, is consistent with generally accepted accounting principles, and is in compliance with financial reporting requirements as established by the division.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-5
Page: 1 of 3
Subject: Community Library Enhancement Funds
(DCC, State Library Division)

TYPES OF AGREEMENTS: Agreements
TYPES OF RECIPIENTS: Public Libraries in Cities, Towns and Counties
SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* Annotated, Title 9-7-205(1)(f).
INFORMATION CONTACT: Paul Kroff
Financial Manager 715-6771

A. PROGRAM OBJECTIVES:

This program contributes funds (also referred to as grants) to improve public library service and to assist and stimulate local government funding for public library service. Grant funds appropriated by the Utah Legislature are distributed by the State Library Division of DCC to eligible public library jurisdictions in a single public library development grant. Libraries qualify by meeting standards for public library service and maintaining local government financial effort on behalf of library service.

B. PROGRAM PROCEDURES:

The grants program is administered under policies adopted by the Utah State Library Board. After certifying the eligibility of each public library jurisdiction, the Division applies a formula which distributes funds based on the size of population served, and a relative wealth component and effort.

After determining the amount of each grant the Division and the public library sign an agreement specifying the amount of the grant, expenditure deadlines, reports required, and the local government obligation for maintenance of effort for the coming year. Checks are disbursed based on the signed agreements. The Division monitors receipt of required reports and conducts field audits of expenditures as needed.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement

Funds can be used for any library-related purpose that improves service to the library's customers.

Funds cannot be used to match federal LSTA (Library Services and Technology Act) grants.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-5
Page: 2 of 3
Subject: Community Library Enhancement Funds
(DCC, State Library Division)

Suggested Audit Procedures:

1. Determine amount to award.
2. Determine if all funds have been spent within the given time limit.
3. Determine if compliance requirements were met.

2. ELIGIBILITY

Compliance Requirement

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

Matching: Matching funds are not required

Level of Effort: Local governments must expend from local government sources an aggregate amount for library service (exclusive of capital outlay) of not less than 90% of that actually expended in the second preceding fiscal year. An exception may be granted if overall local government funding was reduced. The applicant must file a "Certification of Jurisdiction-wide Budget Reductions" which must be approved by the State Library before funding is approved.

Suggested Audit Procedure:

Unless a waiver was granted, determine if at least 90% of that actually expended in the second previous year was spent in the year under audit.

Earmarking Requirements: Must comply with "Allowed Services" above.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-5
Page: 3 of 3
Subject: Community Library Enhancement Funds
(DCC, State Library Division)

4. REPORTING REQUIREMENTS

Compliance Requirements:

Libraries must submit an annual report of expenditures of funds on the form specified by the Division. (Note: In order for libraries to qualify for the grants, they must also submit an annual financial and statistical report to the Division and meet certification requirements.)

Suggested Audit Procedure:

Determine that an expenditure report of funds was submitted to the Division during the year under audit.

5. SPECIAL TESTS AND PROVISION

Compliance Requirements:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-6
Page: 1 of 3
Subject: Division of Arts and Museums

TYPES OF AGREEMENTS: Application and Contract Letters

TYPES OF RECIPIENTS: Nonprofit Organizations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 9-6-201* and numerous Federal regulations that are identified in grant guidelines on division website;
www.artsandmuseums.utah.gov

INFORMATION CONTACT: Katie Woslager, (801) 236-7550
Grants Manager, Division of Arts and Museums
Utah Arts Council
617 East South Temple
Salt Lake City, UT 84102

A. PROGRAM OBJECTIVES:

The fair and equitable distribution of grant dollars to nonprofit organizations statewide in support of quality arts projects and programming. (Grant dollars are derived from Utah Arts Council's annual state appropriation and from Federal funds through the Council's Basic State Grant awarded by the National Endowment for the Arts.)

B. PROGRAM PROCEDURES:

Applicants for Utah Arts Council ("UAC") grant dollars must be incorporated as nonprofit organizations and have obtained federal tax exempt status. Applicants must submit a Utah Arts Council grant application form to UAC describing their proposed project, anticipated budget figures, and work samples. Applications will be reviewed by advisory panels of peers, and then ratified by the 13-member UAC Board of Directors where the final funding decisions are made. After grants are awarded and projects complete, grantees must submit a final UAC Evaluation Report Form to the Council describing the project, providing actual budget information and submission of marketing materials. 80% of payment is made upon return of their contract and 20% of payment is made upon return of their final report. Future eligibility is dependent on submission of the final report form. Council Board members, staff, and advisory panelists make every attempt to attend grantee projects for purposes of on-site review; and, when attending, they complete a UAC On-Site Review Evaluation Form which becomes part of the grantee file.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-6
Page: 2 of 3
Subject: Division of Arts and Museums

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The Utah Arts Council Grants Program supports a wide variety of arts projects/activities. UAC maintains a list of funding priorities and limitations. Funds awarded must be used for the project described in the grantee application and cannot be diverted to other purposes or projects without prior written consent from Utah Arts Council Board of Directors.

2. ELIGIBILITY

Compliance Requirement:

Applicants to the Grant Program must be nonprofit organizations which are tax exempt in nature, and dollars must be requested for support for arts projects which are open to everyone.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Grantees must match grant dollars at least dollar-for-dollar with cash from other sources, i.e., private support, earned income, corporate or foundation support, other government sources of support, etc.

4. REPORTING REQUIREMENTS

Compliance Requirement:

Grantees must complete and submit a Utah Arts Council Evaluation Report Form upon project completion, describing the actual project, providing actual budget information and showing evidence of cash match for monies awarded. Projects must be completed within a one-year period.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-6
Page: 3 of 3
Subject: Division of Arts and Museums

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

As subgrantees of the National Endowment for the Arts, Utah Arts Council grantees must also submit to selected Federal regulations. A copy of the *National Endowment for the Arts Summary of Selected Regulations for Subgrantees* is available from the UAC.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-7
Page: 1 of 3
Subject: Pamela Atkinson Homeless Trust Fund
(DCC, Community Development Division)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Cities, Towns, Counties, Association of Governments, Housing Authorities, Non-Profit groups

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 9-4-801 through 803*

INFORMATION CONTACT: Jonathan Hardy, Program Info. (801)538-8650
Kimberley Schmeling, Fiscal Info., (801)538-8727

A. PROGRAM OBJECTIVES:

Programs funded by the committee emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services and case management to meet the unique needs of the homeless who are mentally ill and who are in families with children. The committee may also fund treatment programs to ameliorate the effects of substance abuse or handicap (*Utah Code 9-4-802*).

B. PROGRAM PROCEDURES:

The legislature establishes a State Homeless Coordinating Committee which committee shall allocate the funds by a competitive application process.

1. A "Request for Proposals" is published every February soliciting proposals; the due date is in March. The Committee reviews applications in March and April and allocates funds generally by June 1 with funds available beginning July 1.
2. Additional general information not specifically covered by the application form should also be furnished to the Department of Community and Culture when such information would be helpful to the committee in appraising the merits of the project.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-7
Page: 2 of 3
Subject: Pamela Atkinson Homeless Trust Fund
(DCC, Community Development Division)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Grants are given for the following purposes:

- Land acquisition
- Shelter rehabilitation
- Operation costs of emergency shelters
- Homeless Prevention
- Mental health services
- Substance abuse services
- Transitional housing for the homeless
- Group homes
- Mortgage foreclosure prevention
- Other homeless activities
- Administration

The contract outlines a specific amount and specific project or service to be performed.

Suggested Audit Procedures:

1. Determine amount of award
2. Determine if the funds have been spent in accordance with the contract budget.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

Compliance requirements vary with the applications and/or projects. There is no statutory requirement for a specific matching fund ratio. If matching funds are required, it will be stated on the contract budget.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: DCC-7
Page: 3 of 3
Subject: Pamela Atkinson Homeless Trust Fund
(DCC, Community Development Division)

Suggested Audit Procedures:

1. Determine if the award has a required match
2. Review financial records to determine if the match has been met.

4. REPORTING REQUIREMENTS

Compliance Requirements:

None

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirements:

None

**STATE OF UTAH
LEGAL COMPLIANCE AUDIT GUIDE**

Department of Environmental Quality (DEQ):

DEQ Programs

DEQ-1

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: DEQ-1
Page: 1 of 2
Subject: DEQ Programs

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Local Health Departments (LHD)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code* 19-1 through 19-8 and associated Rules R305 through R317

INFORMATION CONTACT: Craig Silotti (801-536-4460)
Renette Andersen (801-536-4478)

A. PROGRAM OBJECTIVES:

The objectives of this program are to safeguard human health and quality of life by protecting and enhancing the environment; reduce environmental health risks through assistance, education and oversight; and to assure that environmental programs conform to state rules and federal regulations designed to protect public health, safety, and the environment.

B. PROGRAM PROCEDURES:

The State Department of Environmental Quality contracts annually with LHDs to carry out environmental programs such as the following: LHD Environmental Services, Used Oil, Underground Storage Tanks, Lead Program, Radon Program, and Drinking Water Sanitary Survey. All of the state funded environmental programs performed by the LHDs are addressed in one master contract with the Department of Environmental Quality. The contract contains a work plan and reporting requirements for the LHDs. Contract payments are made to the LHDs quarterly. Annual and program reports are required.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

- a. Inspections by LHDs.
- b. Travel to inspections.
- c. Generating, filing, and mailing forms and reports.
- d. Response to environmental health risks.
- e. Inspection of sites for proper operations, record keeping, and compliance investigations.
- f. Reporting to the state non-compliance with rules and regulations found during inspections.
- g. Providing technical assistance and regulatory information to the regulated communities.
- h. Providing input on environmental issues affecting LHD jurisdictions.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: DEQ-1
Page: 2 of 2
Subject: DEQ Programs

Suggested Audit Procedures

- a. Review contract performance requirements as contained in work plan attached to and incorporated in each contract.
- b. Review annual and program reports and determine that work reported was performed.

2. ELIGIBILITY

Compliance Requirement:

None.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

No local match required under the contract.

4. REPORTING REQUIREMENTS

Compliance Requirements:

Reports are required on state format for various environmental programs, indicating numbers and types of inspections, investigations, contracts with owners, and hours invested in the program. Drinking Water survey forms, indicating the date of the inspection, or investigation of and emergency response are also required.

Suggested Audit Procedures:

Auditor should review annual work plan attached to contract to determine reporting requirements and then review required reports as to contract stipulations.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Department of Health (DOH):

Tobacco Prevention and Control Program

DOH-1

Public Health Services

DOH-2

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-1
Page: 1 of 2
Subject: Tobacco Prevention and Control Program
(DOH, Division of Community & Family Health Services)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Local Health Departments, Other (Community-Based Organizations)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 63-97-401, 63-97-201, 59-14-204, 26-5-2, 26-7-1, 26-38-9, 26-42-104, 26-43-102*

INFORMATION CONTACT: Amy Sands, (801)538-9374

A. PROGRAM OBJECTIVES:

The Tobacco Prevention and Control Program incorporates statewide tobacco education/prevention activities which are intended to reduce tobacco use among Utahns.

B. PROGRAM PROCEDURES:

Funds are used to implement various tobacco prevention and cessation programs targeted to students, teachers, and staff in schools, as well as retailers, law enforcement agencies and the general citizenry in communities. Contracts are distributed to local health departments (LHDs) and other community agencies at the beginning of the State fiscal year (July 1 - June 30). Funding is generally distributed via cost-reimbursement and expenditures are allowed through the fiscal period (June 30).

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED AND UNALLOWED

Compliance Requirement:

Only salaries, benefits, travel, and current expenses which were directly related to the program are allowed. (Non-reimbursable costs include: any space costs, computer equipment costs, and expenses not directly related to the program. Space costs and computer equipment are occasionally allowed with prior approval.)

2. ELIGIBILITY

Compliance Requirement:

The auditor is not expected to make tests for eligibility.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-1
Page: 2 of 2
Subject: Tobacco Prevention and Control Program
(DOH, Division of Community & Family Health Services)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None.

4. REPORTING REQUIREMENTS

Compliance Requirement:

Entities receiving these funds must file a quarterly report. They are due 15 to 30 days after the end of each quarter to the Department of Health.

Entities receiving these funds must also comply with reporting requirements set forth in *Utah Code* 63-97-401, 63-97-201, and 59-14-204.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-2
Page: 1 of 2
Subject: Public Health Services
(DOH, Division of Disease Control and Prevention)

TYPES OF AGREEMENTS: Contract (block grant)

TYPES OF RECIPIENTS: Local Health Departments (LHD)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 26A-1-106(1)(c)*
Utah Administrative Rule 380-40
Administrative rules and regulations, etc.

INFORMATION CONTACT: Robert Rolfs, Div. Director (801) 538-6386
Robert Kolan (801) 538-6015
Jennifer Brown (801) 538-6131

A. PROGRAM OBJECTIVES:

To improve and maintain public health services through the enhancement of the ability of local health departments to deliver basic public health services.

B. PROGRAM PROCEDURES:

Funds are contracted to local health departments through contracts using a block grant format, i.e., the LHD may choose which services to support and the level of support assigned to them out of the contract funds. A list of approved services is contained in the contract. Contracts are negotiated with each local health department. Funds are advanced on a quarterly basis.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

- a. Contract funds may be used only to support basic public health services. Typical examples include immunization, injury control, sexually transmitted disease, and child health clinics.
- b. The contracts generally support direct services but may provide support for administrative activities including data collection and planning function, etc.
- c. Contract funds may not be used to fund the construction of capital facilities, purchase large equipment items, or to supplant existing funds.

2. ELIGIBILITY

Compliance Requirements:

Only local health departments are eligible to receive these funds.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOH-2
Page: 2 of 2
Subject: Public Health Services
(DOH, Division of Disease Control and Prevention)

3. MATCHING LEVEL EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

All LHDs are required to match State General Funds with county general funds, i.e., funds collected through local property taxes. The match ratio is negotiated with the Department of Health and local health departments annually. The Contact person will have the match requirements which are negotiated annually.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The contracts require the submission of monthly expenditure reports.

5. SPECIAL TESTS AND PROVISION

Compliance Requirements:

None

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Department of Natural Resources (DNR):

Conservation & Development Fund	DNR-1
Cities Water Loan Program	DNR-2
Wild Fire Suppression	DNR-3
Revolving Construction Fund	DNR-4

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-1
Page: 1 of 3
Subject: Conservation & Development Fund
(DNR, Division of Water Resources)

TYPES OF AGREEMENTS: Contracts or Bonds

TYPES OF RECIPIENTS: Political subdivisions of the state(cities, towns, districts), private corporations, and other incorporated entities, federal government, Indian tribes

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 73-10*

INFORMATION CONTACT: Val J. Anderson, Division of Water Resources, Department of Natural Resources, 538-7292

A. PROGRAM OBJECTIVES:

To provide technical and financial assistance for development and construction of agricultural irrigation projects, municipal culinary projects, municipal irrigation projects, industrial water projects, and flood control projects.

B. PROGRAM PROCEDURES:

Applications for assistance are investigated and presented for consideration to the Board of Water Resources. The Board reviews the merits of each project and, based on its findings, will either authorize or reject the project. If authorized, the Board will enter into an agreement with or purchase a bond from the applicant once certain conditions are met, if an agreement, the Board takes title to the project and the applicant's water rights, and the applicant purchases the project on an installment contract.. The proposed project will be constructed based on engineering plans and specifications.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

- a. Funds can be provided for engineering, legal, administration, and construction of any eligible project. Interest charged can vary from 1% to 7% based on the type of facility being constructed and the applicant's ability to pay. The normal repayment period is from 10 to 35 years. Engineering design may be done by the Division of Water Resources' staff if time and other factors permit.
- b. Hydropower generation portions of a project must be paid by the applicant or other agencies.
- c. Projects must be municipal culinary or secondary water projects serving areas where at least 50% of the residents live there year-round.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-1
Page: 2 of 3
Subject: Conservation & Development Fund
(DNR, Division of Water Resources)

2. ELIGIBILITY

Compliance Requirements:

The auditor is not required to test for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Applicant shall pay a share of the project cost, depending on its ability (normally about 15%). The percentage is set at time of authorization.

4. REPORTING REQUIREMENTS

Compliance Requirements:

For applicants using the bonding method, an annual audit is required to be submitted to the Board of Water Resources which contains the following information:

- a. A statement showing revenues and expenditures for the fiscal year.
- b. A balance sheet for the fiscal year.
- c. The auditor's comments on the applicant's compliance with the requirements of the bond resolution along with recommendations for improvements needed in the operation of the water system.
- d. A list of insurance policies (fidelity bonds) in force at the end of the fiscal year, listing the amount of each policy, the risks covered, the name of the insurer and the expiration date of the policy.
- e. The number of properties connected to the water system at the end of the fiscal year.
- f. An analysis of all funds created in the bond resolution disclosing all deposits and disbursements made during the fiscal year and the amount in each fund at the end of the fiscal year.
- g. The number of water connections, disconnected homes within the service area and pending applications for water service at the end of the fiscal year.
- h. The total billings for the fiscal year and the average monthly billing per customer for service.
- i. All schedules of rates and charges imposed for water service during the fiscal year.

5. SPECIAL TESTS AND PROVISIONS (For applicants using the bonding method.)

Compliance Requirements:

- a. Plans and specifications for the construction must be approved by the Division of Water Resources for municipal culinary and irrigation projects, by the Division of Drinking Water, and for reservoir projects by the Division of Water Rights.
- b. The applicant must submit an attorney's opinion as to all easements and title to the water rights.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-1
Page: 3 of 3
Subject: Conservation & Development Fund
(DNR, Division of Water Resources)

- c. The applicant must either sell the board a bond or enter into an agreement with the Board of Water Resources.
 1. If selling the Board a bond, the applicant must complete a list of requirements, including the following:
 - i. Follow normal bonding procedures as they apply to political subdivisions
 - ii. Secure a fidelity bond on officials with access to repayment funds
 - iii. Hold a bond election or send notices of intent to all water users and hold a public hearing to ascertain public support
 2. If signing an agreement with the Board, the applicant must complete a list of requirements, including the following:
 - i. Submit an attorney's opinion as to all easements and title to the water rights
 - ii. Pass a resolution by the appropriate majority of company stock authorizing its officers to assign water rights, properties, and easements to the Board of Water Resources and enter into an agreement with the Board of Water Resources for construction of the project.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-2
Page: 1 of 2
Subject: Cities Water Loan Fund
(DNR, Division of Water Resources)

TYPES OF AGREEMENTS: General Obligation, Water Revenue, Special Assessment, and other bonds.

TYPES OF RECIPIENTS: Political subdivisions of the state (cities, towns, districts)

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 73-10*

INFORMATION CONTACT: Val J. Anderson, Division of Water Resources, Department of Natural Resources, 538-7292

A. PROGRAM OBJECTIVES:

To provide technical and financial assistance for development and construction of municipal culinary and irrigation water projects.

B. PROGRAM PROCEDURES:

Applications for assistance are investigated and presented for consideration to the Board of Water Resources. The Board reviews the merits of each project and, based on its findings, will either authorize or reject the project. If authorized, the Board will purchase a bond from the applicant once certain conditions are met. The proposed project will be constructed based on engineering plans and specifications.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

- a. Loan funds can be provided for engineering, legal and administrative fees, and construction of municipal culinary and irrigation water system improvement projects. Interest rates charged can vary from 0% to 4% and the normal repayment period is from 10 to 30 years.
- b. Hydropower generation portions of a project must be paid by the applicant or other agencies.
- c. Projects must be municipal culinary or secondary water projects serving areas where at least 50% of the residents live there year-round.

2. ELIGIBILITY

Compliance Requirements:

The auditor is not required to test for eligibility.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-2
Page: 2 of 2
Subject: Cities Water Loan Fund
(DNR, Division of Water Resources)

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirements:

- a. Applicant must hire an engineering consultant to do the design.
- b. Applicant shall pay a share of the project cost, depending on its ability (normally about 15%). The percentage is set at time of authorization.

4. REPORTING REQUIREMENTS

Compliance Requirements:

- a. If an annual audit is required by other state directives, a copy of such audit is to be submitted to the Division of Water Resources.
- b. The following information shall be submitted annually to the Division of Water Resources (may either be part of an audit or on a separate form):
 - 1) A water system statement of revenues and expenditures for the fiscal year.
 - 2) A water system balance sheet.
 - 3) A list of fidelity bonds in force at the end of the fiscal year listing the amount of coverage, the risks covered, the name of the insurer and the expiration date.
 - 4) The balance in the Reserve and Emergency Repair and Replacement Funds created in the bond resolution at the end of the fiscal year.
 - 5) The number of connections to the water system at the end of the fiscal year.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirements:

- a. The applicant must follow normal bonding procedures as they apply to cities and towns.
- b. Plans and specifications for construction must be approved by the Division of Water Resources and the Division of Drinking Water.
- c. The applicant must submit an attorney's opinion as to all easements and title to the water rights.
- d. The applicant must secure a fidelity bond on officials with access to repayment funds.
- e. The applicant must either hold a bond election or send notices of intent to all water users and hold a public meeting to ascertain public support.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-3
Page: 1 of 2
Subject: Wild Fire Suppression
(DNR, Division of Forestry, Fire and State Lands)

TYPES OF AGREEMENTS: Written cooperative wildland fire agreement.

TYPES OF RECIPIENTS: Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 65A-8-5 and 65A-8-6*

INFORMATION CONTACT: Tracy Dunford or Roger Lewis, 538-5555

A. PROGRAM OBJECTIVES:

To abate the public nuisance of uncontrolled fires burning on state or private forest, range or watershed lands and to see that adequate, appropriate action is taken to control such fires. Appropriate action is any suppression effort made that is safe, tactically sound, and for which costs of such effort is commensurate with values at risk.

B. PROGRAM PROCEDURES:

The Division establishes and maintains a written cooperative wildfire agreement with each county. The agreement indicates the supervisory aid and cooperation to be provided by the state and county in the program as well as financial arrangements. The county must adopt a wildland fire ordinance, require fire departments to meet minimum training and certification, and file a budget for wildland fire suppression. The mutually agreed upon annual budget between the county and state forester is set up to cover normal fire suppression costs as defined by the Forestry, Fire and State Lands rules. A county participating in the wildland fire protection system with the State may petition the State in writing for assistance in paying fire suppression costs of one-half of that which exceeds the determined norm, or if eligible, to have fire suppression costs covered by the Wildland Fire Suppression Fund.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Any type of service that is requested by a county or State representative for the Wildland Fire Program directly related to the control efforts of a wildfire are allowed. An exception is the County Sheriff's Department. If the Sheriff decides to provide a service to a fire suppression effort on their own, such costs are not allowed. If any cooperator of the State's Wildland Fire Program takes independent action to supply resources to suppress a wildfire, that was not specifically requested by authorized personnel, the cost of such services is not allowed.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-3
Page: 2 of 2
Subject: Wild Fire Suppression
(DNR, Division of Forestry, Fire and State Lands)

2. ELIGIBILITY

The auditor is not required to test eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

The annual wildland fire budget provides for the county to pay half the cost of the designated fire warden position (and assistant fire warden position where applicable), for fire prevention materials, maintenance of firefighting apparatus and equipment, other suppression resources, and any other items the State Forester and county agree are needed. If a county chooses to participate in the Wildland Fire Suppression Fund they will have to pay the required assessment. It is the county's duty to abate the public nuisance of uncontrolled fire on private or county owned forest, range, or watershed lands. Actual costs of suppression are a charge against the county unless provided otherwise by cooperative agreement. The State Forester shall see appropriate action is taken to control fires on non-federal forest, range, or watershed lands.

4. REPORTING REQUIREMENTS

Compliance Requirement:

A county requesting financial aid from the Division must do so in writing. They must provide documentation to substantiate their fire suppression expenditures beyond the norm.

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

The county agrees to allow an audit of its books each year to verify wildland fire control expenditures. Audit information is used to establish the annual wildland fire budget and to substantiate request for financial aid for expenditures beyond the norm.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-4
Page: 1 of 2
Subject: Revolving Construction Fund
(DNR, Division of Water Resources)

TYPES OF AGREEMENTS: Contracts

TYPES OF RECIPIENTS: Incorporated entities owning clear title to a water right.

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 73-10*

INFORMATION CONTACT: Val J. Anderson, Division of Water Resources, Department of Natural Resources, 538-7292

A. PROGRAM OBJECTIVES:

To provide technical and financial assistance for development and construction of agricultural and (when applicant is not a city or town) small municipal irrigation projects, rural culinary projects, dam safety studies and dam study upgrades.

B. PROGRAM PROCEDURES:

Applications for assistance are investigated and presented for consideration to the Board of Water Resources. The Board reviews the merits of each project and, based on its findings, will either authorize or reject the project. If authorized, the Board will enter into an agreement with the applicant once certain conditions are met. The project will be constructed based on engineering plans and specifications. The Board takes title to the project and the applicant's water rights, and the applicant purchases the project on an installment contract.

There are no compliance requirements other than to determine that the applicant's income is adequate to make annual payment. Therefore, no testwork is required for the applicants.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

- a. Funds can be provided for engineering, legal, administration and construction of any eligible project.
- b. Interest is not charged.
- c. The normal repayment period is from 10 to 25 years.
- d. Engineering design may be done by the Division of Water Resources' staff if time and other factors permit.
- e. Hydropower generation portions of a project must be paid by the applicant or other agencies.
- f. Projects must be municipal culinary or secondary water projects serving areas where at least 50% of the residents live there year-round.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DNR-4
Page: 2 of 2
Subject: Revolving Construction Fund
(DNR, Division of Water Resources)

2. ELIGIBILITY

Compliance Requirement:

The auditor is not required to test for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Applicant shall pay a share of the project cost, depending on its ability (normally about 15%). The percentage is set at the time of authorization.

4. REPORTING REQUIREMENTS

None.

5. SPECIAL TESTS AND PROVISIONS

The applicant must complete a list of requirements, including the following:

- a. Plans and specifications for the construction must be approved by the Division of Water Resources and, for culinary and secondary projects by the Division of Drinking Water, and for reservoir projects by the Division of Water Rights.
- b. Submit an attorney's opinion as to all easements and title to the water rights.
- c. Pass a resolution by the appropriate majority of company stock authorizing its officers to assign water rights, properties, and easements to the Board of Water Resources and enter into a contract with the Board of Water Resources for construction of the project.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Department of Human Services (DHS):

Adult Services – HCB Alternatives Program	DHS-1
Mental Health Contracts	DHS-2
Substance Abuse Contracts	DHS-3

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-1
Page 1 of 2
Subject: Adult Services - HCB Alternatives Program
DHS, Division of Aging and Adult Services

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Area Agencies
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 62A-3-104*

INFORMATION CONTACT: Nels Holmgren, (801) 538-3921

A. PROGRAM OBJECTIVES:

To provide supportive services which enable functionally impaired adults, who are outside of needing long term institutional care, to remain in their own homes and prevent inappropriate or premature institutionalization.

To improve the quality of life and help to preserve maximum independence and personal dignity of recipients.

B. PROGRAM PROCEDURES:

Area Agencies and Counties enter into contracts with the Department. They may subcontract for service delivery. Reimbursement is made monthly by the Department upon receipt of billing from provider.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

Allowed services include:

- a. Assessment by a Case Manager to determine if services are needed.
- b. Care Plan written by a Case Manager with the client's input.
- c. A maximum of \$750 monthly expenditures for services unless waiver is obtained by agency director or designee.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-1
Page 2 of 2
Subject: Adult Services - HCB Alternatives Program
DHS, Division of Aging and Adult Services

2. ELIGIBILITY

Compliance Requirement:

Program participants must meet the following eligibility requirements:

- a. Persons age 18 and over. (25% of clients may be under age 60.)
- b. Fees assessed based on Department fee schedule #1.
- c. \$6,000 assets for 1 person, \$12,000 assets per couple (family).
- d. Risk score of moderate to high on DAAS approved assessment.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

None.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The following reports are required:

- a. Quarterly Care Plan Review
- b. Annual Reassessment

5. SPECIAL TESTS AND PROVISIONS

Compliance Requirement:

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-2
Page: 1 of 3
Subject: Mental Health Contracts
DHS, Division of Mental Health

TYPES OF AGREEMENTS: Mental Health Contracts

TYPES OF RECIPIENTS: Mental Health Authorities - Counties, Interlocal Agencies, Associations of Governments, Nonprofit Corporations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code, Sections 17-43-301-309, 62A-15-110*

INFORMATION CONTACT: John G. Bell - Phone 538-4072
Division of Substance Abuse and Mental Health

A. PROGRAM OBJECTIVES

To provide a comprehensive continuum of mental health services as defined in statute as follows:

Services for adults, youth and children including but not limited to, the following: inpatient care and services, 24-hour crisis care and services, psychotropic medication management, psychological rehabilitation including vocational training and skills development, case management, community supports including in-home services, housing, family support services, and respite services; and consultation and education services, including but not limited to, case consultation, collaboration with other service agencies, public education and public information. (*Utah Code, Section 17-43-301 (4) (b)*)

Offer and provide services to residents who are indigent and who meet state criteria for serious and persistent mental illness or severe emotional disturbance. Have responsibility for supervision and treatment of mentally ill persons who have been committed to its custody, whether residing in the State Hospital or not. (*Utah Code, Section 62A-15-207 (1)*)

B. PROGRAM PROCEDURES

All county governing bodies in the State of Utah are local mental health authorities except in Wasatch County where the County Manager is the Authority. The local mental health authorities shall provide mental health services to persons within their respective counties. (*Utah Code, Section 17-43-301*). Two or more county legislative bodies may join together to provide mental health prevention and treatment. (*Utah Code, Section 17-43-301 (2)(a)*)

Each local mental health authority is responsible for oversight of all public funds received by it, to determine that those funds are utilized in accordance with federal and state law, the rules and policies of the Department of Human Services and the Department of Health, and related contractual provisions. (*Utah Code, Section 17-43-301 (3)(a)*)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-2
Page: 2 of 3
Subject: Mental Health Contracts
DHS, Division of Mental Health

This *Audit Guide* focuses on State grants to local governments and nonprofit entities and does not address audit requirements for federal programs. The contracts made by the Division of Mental Health to the local authorities for mental health programs usually contain 80% State funds and 20% federal funds. There is also a requirement for a local match equaling 20% of the State funds. The federal funds received under these contracts are subject to single audit but may or may not be tested depending on whether the entity is required to have a single audit and whether the independent auditor selects the program for testing. This section of the *Audit Guide* is applicable to any local government or nonprofit entity that is required to have an audit in accordance with this *Audit Guide* and expends \$100,000 or more of state funds under a mental health contract whether or not the entity's mental health programs have been tested during the single audit for the same year. However, some federal compliance tests, if performed during the current year, may satisfy tests required in this section.

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

State and federal funds appropriated to local mental health authorities are to be used only for mental health purposes and in accordance with the contracts established between the auditee and the State Division of Mental Health and/or the local mental health authority. (*Utah Code, Section 67-3-1(10)(b)(iii & iv)*)

Suggested Audit Procedure:

Review the mental health contracts and determine whether the mental health funding is being used in accordance with the contracts.

2. ELIGIBILITY

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Local mental health authorities must provide matching funds equal to at least 20% of the state funds that it receives to fund services described in the plan. (*Utah Code, Section 17-43-301(4)(a)(x)*)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-2
Page: 3 of 3
Subject: Mental Health Contracts
DHS, Division of Mental Health

Suggested Audit Procedure:

Review financial records to determine whether the matching requirement has been met.

4. REPORTING REQUIREMENTS

The auditor is not expected to test required reports.

5. SPECIAL TESTS AND PROVISIONS

a. Compliance Requirements:

The independent auditor shall audit the compensation and expenses of officers and directors of the contract provider to assure the State that no personal benefit is gained by them or any related party from travel or other expenses. The State Division of Mental Health may prescribe specific items to be addressed by the audit, depending upon the particular needs or concerns relating to the local mental health authority or contract provider at issue. (*Utah Code, Section 62A-15-110(2)*)

Suggested Audit Procedures:

The audit procedures related to the compensation and expenses of officers and directors may include:

- 1) determining whether a policy has been established that requires a mechanism for the approval of compensation for officers and directors;
- 2) determining if the director's salary has been officially approved by the governing board as documented in board minutes;
- 3) reviewing, scanning, or sampling of travel and miscellaneous expenses to ensure that such expenses are reasonable, necessary, and in accordance with the entity's written policies, procedures, and internal controls;
- 4) reviewing related party transactions; and
- 5) performing other audit procedures as may be determined appropriate by the auditor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-3
Page: 1 of 3
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

TYPES OF AGREEMENTS: Substance Abuse Contracts

TYPES OF RECIPIENTS: Substance Abuse Authorities - Counties, Interlocal Agencies, Associations of Governments, Nonprofit Corporations

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code, Sections 17-43-201-204, 62A-15-110*

INFORMATION CONTACT: John G. Bell - Phone 538-4072
Division of Substance Abuse and Mental Health

A. PROGRAM OBJECTIVES

The purpose of the Substance Abuse Program is to assist residents of the State of Utah to overcome or avoid problems with the use of illegal drugs or misuse of legal drugs and alcohol. The Division of Substance Abuse assists in this process by negotiating contracts with local substance abuse authorities (County Commissions or County Executives) and administering the State approved funding formula.

B. PROGRAM PROCEDURES

All county legislative bodies in the State of Utah are local substance abuse authorities except in those counties having an executive-council or a council-manager form of local government such as Wasatch County where the county manager is the local authority. (*Utah Code, Section 17-43-201.*) The local substance abuse authorities shall provide substance abuse services to persons within their respective counties. (*Utah Code, Section 17-43-301.*) Two or more county legislative bodies may join to provide substance abuse prevention and treatment services. (*Utah Code, Section 17-43-301 (2) (a).*)

The negotiated contracts with local substance abuse authorities define the types of treatment and prevention services that are required to be provided by the contractor and establish a mechanism for funding part of the cost of such services. The required alcohol, tobacco, and other drug treatment services range from residential services to classes for drivers convicted of driving under the influence of drugs or alcohol. Prevention services offered are based upon a local assessment of the types of these services needed in each area.

This *Audit Guide* focuses on State grants to local governments and nonprofit entities and does not address audit requirements for federal programs. However, State contracts to the local authorities for substance abuse programs usually contain 50% State funds and 50% federal funds. The federal funds received under these contracts are subject to single audit but may or may not be tested depending on whether the entity is required to have a single audit and whether the program was actually selected for testing. This section of the *Audit Guide* is applicable to any local government or nonprofit entity that is required to have an audit in accordance with this *Audit Guide* and expends \$100,000 or more of state funds under a substance abuse contract whether or not the entity's substance abuse programs have been tested during the single audit for the same year. However, some federal compliance tests, if performed during the current year, may satisfy tests required in this section.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-3
Page: 2 of 3
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirements:

State and federal funds appropriated to local substance abuse authorities are to be used only for substance abuse programs and services and in accordance with the contracts established between the auditee and the State Division of Substance Abuse and/or the local substance abuse authority. (*Utah Code, Section 67-3-1(10)(b)(iii & iv)*)

Suggested Audit Procedure:

Review the substance abuse contracts and determine whether the substance abuse funding is being used in accordance with the contracts.

2. ELIGIBILITY

The auditor is not expected to make tests for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

Compliance Requirement:

Local substance abuse authorities must provide matching funds equal to at least 20% of the state funds that it receives to fund services described in the plan. (*Utah Code, Section 17-43-201(4)(k)*)

Suggested Audit Procedure:

Review financial records to determine whether the matching requirement has been met.

4. REPORTING REQUIREMENTS

The auditor is not expected to test required reports.

5. SPECIAL TESTS AND PROVISIONS

a. Compliance Requirements:

The independent auditor shall audit the compensation and expenses of officers and directors of the contract provider to assure the State that no personal benefit is gained by them or any related party from travel or other expenses. The State Division of Substance Abuse may prescribe specific items to be addressed by the audit, depending upon the particular needs or concerns relating to the local substance abuse authority or contract provider at issue. (*Utah Code, Section 62A-15-110(2)*)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DHS-3
Page: 3 of 3
Subject: Substance Abuse Contracts
DHS, Division of Substance Abuse and Mental Health

Suggested Audit Procedures:

The audit procedures related to the compensation and expenses of officers and directors may include:

- 1) determining whether the director and officer salaries have been officially approved by the entity's governing board as documented in board minutes;
- 2) reviewing the internal controls over travel and other miscellaneous advances or reimbursements;
- 3) reviewing, scanning, or sampling of travel and miscellaneous expenses to ensure that such expenses are reasonable, necessary, and in accordance with the entity's written policies, procedures, and internal controls;
- 4) reviewing related party transactions; and
- 5) performing other audit procedures as may be determined appropriate by the auditor.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Department of Transportation (DOT):

Mineral Lease Distribution to County Special Service Districts DOT-1

Sidewalk Construction DOT-2

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-1
Page: 1 of 2
Subject: Mineral Lease Distribution to County Special Service Districts
DOT, Administration

TYPES OF AGREEMENTS: Appropriation/Formula as stated in the
Utah Code 59-21-2-2(2)(f)

TYPES OF RECIPIENTS: County Single Purpose Special Service District

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code Title 59*

INFORMATION CONTACT: Utah Department of Trans. – Program Development
A. Matthew Swapp – 801-965-4366
Cell 870-4023

A. PROGRAM OBJECTIVES:

The objective of this distribution is to provide financial aid to areas of communities impacted by the development of natural resources on public lands. The funds are used to construct, repair and maintain roads or other purposes authorized by law.

B. PROGRAM PROCEDURES:

Twenty-five percent of all deposits made to the mineral lease account are to be given to the Utah Department of Transportation to be distributed by the Transportation Commission to county special service districts established for the purpose of constructing, repairing, and maintaining roads or for other purposes authorized by law. Beginning July 1, 1998, the allocation will increase from 25% to 40% over a three year period. (30% FY 1999, 35% FY 2000, 40% FY 2001 and thereafter)

Utah Code Section 17A-2-1304(1)(a) states “A county or a municipality may establish a service district for the purpose of providing within the area of the service district any of the following services or any combination of them: water, sewerage, drainage, flood control, garbage, hospital, transportation, recreation, fire protection, or street lighting. Snow removal services may be provided in service districts established under this section...”

Funds are allocated to the special service districts based on the amount of mineral lease royalties each county generates. Each county receives 25% of all deposits made to the state mineral lease account. Funds are allocated on a quarterly basis. Special Service Districts have been established through coordination with the Association of Counties.

The law designated the Transportation Commission as a pass-through agency only. It did not specify administrative or regulatory responsibilities.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-1
Page: 2 of 2
Subject: Mineral Lease Distribution to County Special Service Districts
DOT, Administration

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The types of services allowed are those which comply with the provisions of *Utah Code* Sections 17A-2-1301 to 17A-2-1332 dealing with the establishment of Special Service Districts.

Suggested Audit Procedure:

Determine that the funds were spent by Special Service Districts established in accordance with *Utah Code* Sections 17A-2-1301 to 17A-2-1332.

2. ELIGIBILITY

Compliance Requirement:

For a county to be eligible for these funds it must have generated mineral lease money and must have an established single purpose special service district.

Suggested Audit Procedure:

Determine that the county has established in a single purpose special service district in accordance with *Utah Code* Section 17A-2-1301 to 17A-2-1332..

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

None.

4. REPORTING REQUIREMENTS

None.

5. SPECIAL TESTS AND PROVISIONS

None.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 1 of 5
Subject: Sidewalk Construction
(DOT, Administration)

TYPES OF AGREEMENTS: Contract

TYPES OF RECIPIENTS: Cities
Counties

SOURCE OF AUTHORIZATION AND REGULATIONS: *Utah Code 72-8*
UDOT Pedestrian Safety Facilities Program
General Guidelines
Annual Appropriations

INFORMATION CONTACT: Utah Department of Trans. – Traffic & Safety
Ming Ming Jiang – Pedestrian Safety Engineer
(801) 965-4427

A. PROGRAM OBJECTIVES:

The Legislative intent of this program is to use funds appropriated for pedestrian safety projects to correct pedestrian hazards on State highways.

B. PROGRAM PROCEDURES:

The Legislature annually appropriates the funds which are to be used in the Safe Sidewalk Construction Program. The Utah Department of Transportation (UDOT) allocates the funds of the counties based upon population, student enrollment and pedestrian accident experience. The county allocations are then combined into UDOT regions and are distributed to each of the four regions. The UDOT Region District Sidewalk Program Coordinators coordinate with the cities and counties in advising them of fund availability and assisting them with application requests. The local governmental units are encouraged to participate in the project costs. The annual Legislative appropriations can specify the amount of local participation. The UDOT Region District Sidewalk Program Coordinators review the plans, specifications and cost estimates of proposed projects; prioritize the projects in their region based upon the governing criteria. The prioritized region lists are combined into the Department's proposed safe sidewalk program and this program is submitted to the Transportation Commission for review and approval. The Region District Sidewalk Program Coordinators prepare the cooperative agreements on approved projects. UDOT Region District Sidewalk Program Coordinators monitor the contract performance by the local agencies including the project certifications and return of excess funds at project completion of where work is not performed in an expeditious manner.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 2 of 5
Subject: Sidewalk Construction
(DOT, Administration)

C. COMPLIANCE REQUIREMENTS AND SUGGESTED AUDIT PROCEDURES:

1. TYPES OF SERVICES ALLOWED OR UNALLOWED

Compliance Requirement:

The local entities are to submit their requests for funding for projects utilizing the safe sidewalk funds based upon the criteria set forth in *Utah Code* Section 72-8-102 thru 107. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Determine that the criteria in *Utah Code* Annotated Section 72-8-102 thru 107 were used in developing the local governments' project request.

2. ELIGIBILITY

Compliance Requirement:

The auditor is not required to test for eligibility.

3. MATCHING, LEVEL OF EFFORT, AND/OR EARMARKING REQUIREMENTS

a. Compliance Requirement:

The Legislative intent is to encourage local authorities to participate in the construction of pedestrian safety devices. Yearly legislation can designate the matching requirements. For the fiscal year beginning July 1, 1998 the required matching funds are to be on a 75%/25% matching basis. (H.B. 327).

Suggested Audit Procedure:

Determine that the local governmental entity has provided its required match.

b. Compliance Requirement:

Local governments are to use their allocation of Sidewalk Safety Funds in two years. If the funds aren't used in this time period the funds will then be available for other governmental entities which are prepared to use the resources (UDOT Pedestrian Safety Facilities Program General Guidelines) (Also H.B. #327 – 1998 Legislature)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 3 of 5
Subject: Sidewalk Construction
(DOT, Administration)

Suggested Audit Procedure:

Determine whether the entity has spent all its sidewalk funds within the two years. If not, determine whether the funds were properly returned to the State.

4. REPORTING REQUIREMENTS

Compliance Requirement:

The local governmental agency is required to furnish a statement upon completion of the project for which a grant was made certifying the amount of State funds expended for the project and that the project was completed in accordance with the standards and specifications. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Verify that the certifications have been submitted as required. Verify the certified costs to supporting documents.

5. SPECIAL TESTS AND PROVISIONS

a. Compliance Requirement:

All construction must be barrier free to wheelchairs at crosswalks and intersections. (*Utah Code 72-8-102 thru 107*)

Suggested Audit Procedures:

Verify that plans and specifications incorporate barrier-free designs for wheelchairs at crosswalks and intersections.

b. Compliance Requirement:

UDOT has developed small quantity specifications which may be used in constructing curbs, gutters, and sidewalks. A local government may use UDOT's specifications or it may use its own standards and specifications with approval of the UDOT Region District Sidewalk Program Coordinators. The Region District Sidewalk Program Coordinator will not approve any standards and specifications that don't provide at least the minimum requirements. (UDOT Pedestrian Safety Facilities Program General Guidelines)

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 4 of 5
Subject: Sidewalk Construction
(DOT, Administration)

Suggested Audit Procedures:

Determine that the UDOT Standards and Specifications were used or that UDOT approved the standards and specifications used.

c. Compliance Requirement:

For donated land (right-of-way), a full disclosure of the value of the property is to be made to the property owner. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Test right-of-way project files to determine if the property owner who donated the right-of-way was given a statement disclosing the value of the property.

d. Compliance Requirement:

Any safe sidewalk funds received by the local government which are in excess of the amounts expended on the approved project are to be returned to UDOT. (UDOT Pedestrian Safety Facilities Program General Guidelines)

Suggested Audit Procedures:

Determine that project funds received by the local government in excess of the certified costs have been returned to UDOT.

e. Compliance Requirement:

If any local agency grants an exemption of deferral agreement for the construction of sidewalks, curbs, gutters, or pedestrian safety devices which are normally required, the area for which the exemption of deferral agreement applies shall not be eligible to utilize funds permitted to be expended by this act. (*Utah Code 72-8-107*)

Suggested Audit Procedure:

Determine that deferrals or exemptions have not been granted for the areas where sidewalk funds were expended under this act.

f. Compliance Requirement:

It is the intent of the Legislature that the funds provided by this act be deemed additional to funds normally used by the local agencies for sidewalk construction and shall not be used in substitution for local sidewalk construction funds. (*Utah Code 72-8-107*)

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: DOT-2
Page: 5 of 5
Subject: Sidewalk Construction
(DOT, Administration)

Suggested Audit Procedures:

Verify that the funds provided by this act are not substituted for the agency's normal sidewalk funds.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Appendix A: Illustrative Examples of Independent Auditor's Report on State Legal Compliance:

Example 1: Immaterial Instances of Noncompliance Noted	App A-1
Example 2: No Instances of Noncompliance Noted	App A-2
Example 3: No Major State Grants Received by Entity	App A-3
Example 4: No State Grants Received by Entity	App A-4
Example 5: Nonprofit – Immaterial Instances of Noncompliance	App A-5
Example 6: Nonprofits – Provider Contract as a State Major Program	App A-6

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-1
Page: 1 of 2
Subject: Example 1: Illustrative Independent Auditor's Report on State Legal Compliance
Immaterial Instances of Noncompliance Noted

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE IN ACCORDANCE WITH THE STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

We have audited the City of Example's compliance with general and major state program compliance requirements described in the *State of Utah Legal Compliance Audit Guide* for the year ended June 30, 20XX. The general compliance requirements applicable to the City are identified as follows:

Public Debt	Other General Issues
Cash Management	Uniform Building Code Standards
Purchasing Requirements	Statement of Taxes Charged
Budgetary Compliance	Collected & Disbursed
Truth in Taxation & Property	Assessing and Collecting of Property
Tax Limitations	Taxes
Liquor Law Enforcement	Transient Room Tax
Justice Court	Impact Fees
B & C Road Funds	Asset Forfeiture
Special Districts	URS Compliance
	Fund Balance

The City received the following major assistance programs from the State of Utah:

- Community Impact Grants (Dept. of Community and Economic Development)
- B & C Road Funds (Department of Transportation)
- Critical Needs Housing (Dept. of Community and Economic Development)
- Liquor Law Enforcement (State Tax Commission)

Compliance with the requirements referred to above is the responsibility of the City's management. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *State of Utah Legal Compliance Audit Guide*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the major assistance programs or general compliance requirements identified above. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City's compliance with those requirements.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above and the compliance requirements that are applicable to each of its major state programs for the year ended June 30, 20XX. [However, the results of our auditing procedures disclosed other instances of noncompliance with those requirements, which are required to be reported in accordance with the *State of Utah Legal Compliance Audit Guide* and which are described in our letter to management dated [Date] as items 20XX-2 and 20XX-3.]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-1
Page: 2 of 2
Subject: Example 1: Illustrative Independent Auditor's Report on State Legal Compliance
Immaterial Instances of Noncompliance Noted

[Management's response to the finding(s) identified in our audit is described in the accompanying letter to management. We did not audit management's response and, accordingly, we express no opinion on it.]

This report is intended solely for the information and use of the [city, county, school, management, Office of the Utah State Auditor, awarding and pass-through entities, and other specified parties as applicable] and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-2
Page: 1 of 2
Subject: Example 2: Illustrative Independent Auditor's Report on State Legal Compliance
No instances of Noncompliance Noted

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE IN ACCORDANCE WITH THE STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

We have audited the City of Example's compliance with general and major state program compliance requirements described in the *State of Utah Legal Compliance Audit Guide* for the year ended June 30, 20XX. The general compliance requirements applicable to the City are identified as follows:

Public Debt	Other General Issues
Cash Management	Uniform Building Code Standards
Purchasing Requirements	Statement of Taxes Charged
Budgetary Compliance	Collected & Disbursed
Truth in Taxation & Property	Assessing and Collecting of Property
Tax Limitations	Taxes
Liquor Law Enforcement	Transient Room Tax
Justice Court	Impact Fees
B & C Road Funds	Asset Forfeiture
Special Districts	URS Compliance
	Fund Balance

The City received the following major assistance programs from the State of Utah:

- Community Impact Grants (Dept. of Community and Economic Development)
- B & C Road Funds (Department of Transportation)
- Critical Needs Housing (Dept. of Community and Economic Development)
- Liquor Law Enforcement (State Tax Commission)

Compliance with the requirements referred to above is the responsibility of the City's management. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *State of Utah Legal Compliance Audit Guide*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the major assistance programs or general compliance requirements identified above. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City's compliance with those requirements.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above and the compliance requirements that are applicable to each of its major state programs for the year ended June 30, 20XX.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-2
Page: 2 of 2
Subject: Example 2: Illustrative Independent Auditor's Report on State Legal Compliance
No instances of Noncompliance Noted

This report is intended solely for the information and use of the [city, county, school, management, Office of the Utah State Auditor, awarding and pass-through entities, and other specified parties as applicable] and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-3
Page: 1 of 2
Subject: Example 3: Illustrative Independent Auditor's Report on State Legal Compliance
No Major State Grants Received by Entity

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE IN ACCORDANCE WITH THE STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

We have audited the City of Example's compliance with general compliance requirements described in the *State of Utah Legal Compliance Audit Guide* for the year ended June 30, 20XX. The general compliance requirements applicable to the City are identified as follows:

Public Debt	Other General Issues
Cash Management	Uniform Building Code Standards
Purchasing Requirements	Statement of Taxes Charged
Budgetary Compliance	Collected & Disbursed
Truth in Taxation & Property	Assessing and Collecting of Property
Tax Limitations	Taxes
Liquor Law Enforcement	Transient Room Tax
Justice Court	Impact Fees
B & C Road Funds	Asset Forfeiture
Special Districts	URS Compliance
	Fund Balance

The City received the following nonmajor grants from the State of Utah:

Fine Arts Facilities (Dept. of Community and Economic Development)
Sidewalk Construction (Department of Transportation)

The City did not receive any major State grants during the year ended June 30, 20XX.

Compliance with the requirements referred to above is the responsibility of the City's management. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *State of Utah Legal Compliance Audit Guide*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the general compliance requirements identified above. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City's compliance with those requirements.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above for the year ended June 30, 20XX. [However, the results of our auditing procedures disclosed other instances of noncompliance with those requirements, which are required to be

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-3
Page: 2 of 2
Subject: Example 3: Illustrative Independent Auditor's Report on State Legal Compliance
No Major State Grants Received by Entity

reported in accordance with the *State of Utah Legal Compliance Audit Guide* and which are described in our letter to management dated [Date] as items 20XX-2 and 20XX-3.]

[Management's response to the finding(s) identified in our audit is described in the accompanying letter to management. We did not audit management's response and, accordingly, we express no opinion on it.]

This report is intended solely for the information and use of the [city, county, school, management, Office of the Utah State Auditor, awarding and pass-through entities, and other specified parties as applicable] and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-4
Page: 1 of 2
Subject: Example 4: Illustrative Independent Auditor's Report on State Legal Compliance
No State Grants Received by Entity

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE IN ACCORDANCE WITH THE STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

We have audited the City of Example's compliance with general compliance requirements described in the *State of Utah Legal Compliance Audit Guide* for the year ended June 30, 20XX. The general compliance requirements applicable to the City are identified as follows:

Public Debt	Other General Issues
Cash Management	Uniform Building Code Standards
Purchasing Requirements	Statement of Taxes Charged
Budgetary Compliance	Collected & Disbursed
Truth in Taxation & Property	Assessing and Collecting of Property
Tax Limitations	Taxes
Liquor Law Enforcement	Transient Room Tax
Justice Court	Impact Fees
B & C Road Funds	Asset Forfeiture
Special Districts	URS Compliance
	Fund Balance

The City did not receive any major or nonmajor State grants during the year ended June 30, 20XX.

Compliance with the requirements referred to above is the responsibility of the City's management. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *State of Utah Legal Compliance Audit Guide*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the general compliance requirements identified above. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City's compliance with those requirements.

In our opinion, the City of Example, Utah, complied, in all material respects, with the general compliance requirements identified above for the year ended June 30, 20XX. [However, the results of our auditing procedures disclosed other instances of noncompliance with those requirements, which are required to be reported in accordance with the *State of Utah Legal Compliance Audit Guide* and which are described in our letter to management dated [Date] as items 20XX-2 and 20XX-3.]

[Management's response to the finding(s) identified in our audit is described in the accompanying letter to management. We did not audit management's response and, accordingly, we express no opinion on it.]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-4
Page: 2 of 2
Subject: Example 4: Illustrative Independent Auditor's Report on State Legal Compliance
No State Grants Received by Entity

This report is intended solely for the information and use of the [city, county, school, management, Office of the Utah State Auditor, awarding and pass-through entities, and other specified parties as applicable] and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]

[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-5
Page: 1 of 1
Subject: Example 5: Illustrative Independent Auditor's Report on State Legal Compliance Nonprofit Entity - Immaterial Instances of Noncompliance

INDEPENDENT AUDITOR'S REPORT ON COMPLIANCE IN ACCORDANCE WITH THE STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

We have audited ABC Family Services' compliance with the requirements of the provider contract determined to be a major state program as required by the *State of Utah Legal Compliance Audit Guide* for the year ended June 30, 20XX. ABC Family Services received the following major assistance program from the State of Utah:

School Lunch (State Office of Education)

Compliance with the requirements referred to above is the responsibility of ABC Family Services' management. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *State of Utah Legal Compliance Audit Guide*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the major assistance programs identified above. An audit includes examining, on a test basis, evidence about ABC Family Services' compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of ABC Family Services' compliance with those requirements.

In our opinion, ABC Family Services, complied, in all material respects, with the compliance requirements that are applicable to each of its major state programs for the year ended June 30, 20XX. [However, the results of our auditing procedures disclosed other instances of noncompliance with those requirements, which are required to be reported in accordance with the *State of Utah Legal Compliance Audit Guide* and which are described in our letter to management dated [Date] as items 20XX-2 and 20XX-3.]

[Management's response to the finding(s) identified in our audit is described in the accompanying letter to management. We did not audit management's response and, accordingly, we express no opinion on it.]

This report is intended solely for the information and use of management of ABC Family Services and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]
[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-5
Page: 2 of 2
Subject: Example 5: Illustrative Independent Auditor's Report on State Legal Compliance
Nonprofit Entity - Immaterial Instances of Noncompliance

This report is intended solely for the information and use of management of the city and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]
[Date]

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP A-6
Page: 1 of 1
Subject: Example 6: Illustrative Independent Auditor’s Report on State Legal Compliance Nonprofit Entity – Provider Contract as a State Major Program with Immaterial Instances of Noncompliance

INDEPENDENT AUDITOR’S REPORT ON COMPLIANCE IN ACCORDANCE WITH THE *STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE*

We have audited ABC Family Services’ compliance with the major state program compliance requirements described in the *State of Utah Legal Compliance Audit Guide* for the year ended June 30, 20XX. ABC Family Services received the following major assistance program from the State of Utah:

(List Provider Contract)

Compliance with the requirements referred to above is the responsibility of ABC Family Services’ management. Our responsibility is to express an opinion on compliance with those requirements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and the *State of Utah Legal Compliance Audit Guide*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above could have a material effect on the major assistance programs identified above. An audit includes examining, on a test basis, evidence about ABC Family Services’ compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of ABC Family Services’ compliance with those requirements.

In our opinion, ABC Family Services, complied, in all material respects, with the compliance requirements that are applicable to each of its major state programs for the year ended June 30, 20XX. [However, the results of our auditing procedures disclosed other instances of noncompliance with those requirements, which are required to be reported in accordance with the *State of Utah Legal Compliance Audit Guide* and which are described in our letter to management dated [Date] as items 20XX-2 and 20XX-3.]

[Management’s response to the finding(s) identified in our audit is described in the accompanying letter to management. We did not audit management’s response and, accordingly, we express no opinion on it.]

This report is intended solely for the information and use of management of the ABC Family Services and is not intended to be and should not be used by anyone other than the(se) specified parties. However, the report is a matter of public record and its distribution is not limited.

[Signature]

[Date]

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Appendix B: Single Audit Issues:

Subrecipient and Vendor Determinations

App B-1

Flowchart of Single Audit Requirements

App B-2

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP B-1
Page: 1 of 2
Subject: Subrecipient and Vendor Determinations

SUBRECIPIENT AND VENDOR DETERMINATIONS

An entity receiving federal funds may be considered a recipient, subrecipient or a vendor/provider (hereafter referred to as a vendor). Recipients and subrecipients of federal awards are subject to audit under the Single Audit Act and OMB Circular A-133 if their annual expenditures of federal awards are \$500,000 or more. Federal funds received for goods or services provided as a vendor are not considered federal awards and are not subject to single audit. There may be circumstances, however, when vendor records may need to be reviewed to determine program compliance. The following guidance, taken from OMB Circular A-133, §.210, gives further guidance on distinguishing between a subrecipient and a vendor.

A. Federal Award:

Characteristics indicative of a Federal award received by a subrecipient are when the organization:

1. Determines who is eligible to receive Federal financial assistance;
2. Has its performance measured against whether the objectives of the Federal program are met;
3. Has responsibility for programmatic decision making;
4. Has responsibility for adherence to applicable Federal program compliance requirements; and
5. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

B. Payment for Goods and Services:

Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

1. Provides the goods and services within normal business operations;
2. Provides similar goods or services to many different purchasers;
3. Operates in a competitive environment;
4. Provides goods or services that are ancillary to the operation of the Federal program; and
5. Is not subject to compliance requirements of the Federal program.

C. Use of Judgment in Making Determination:

There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

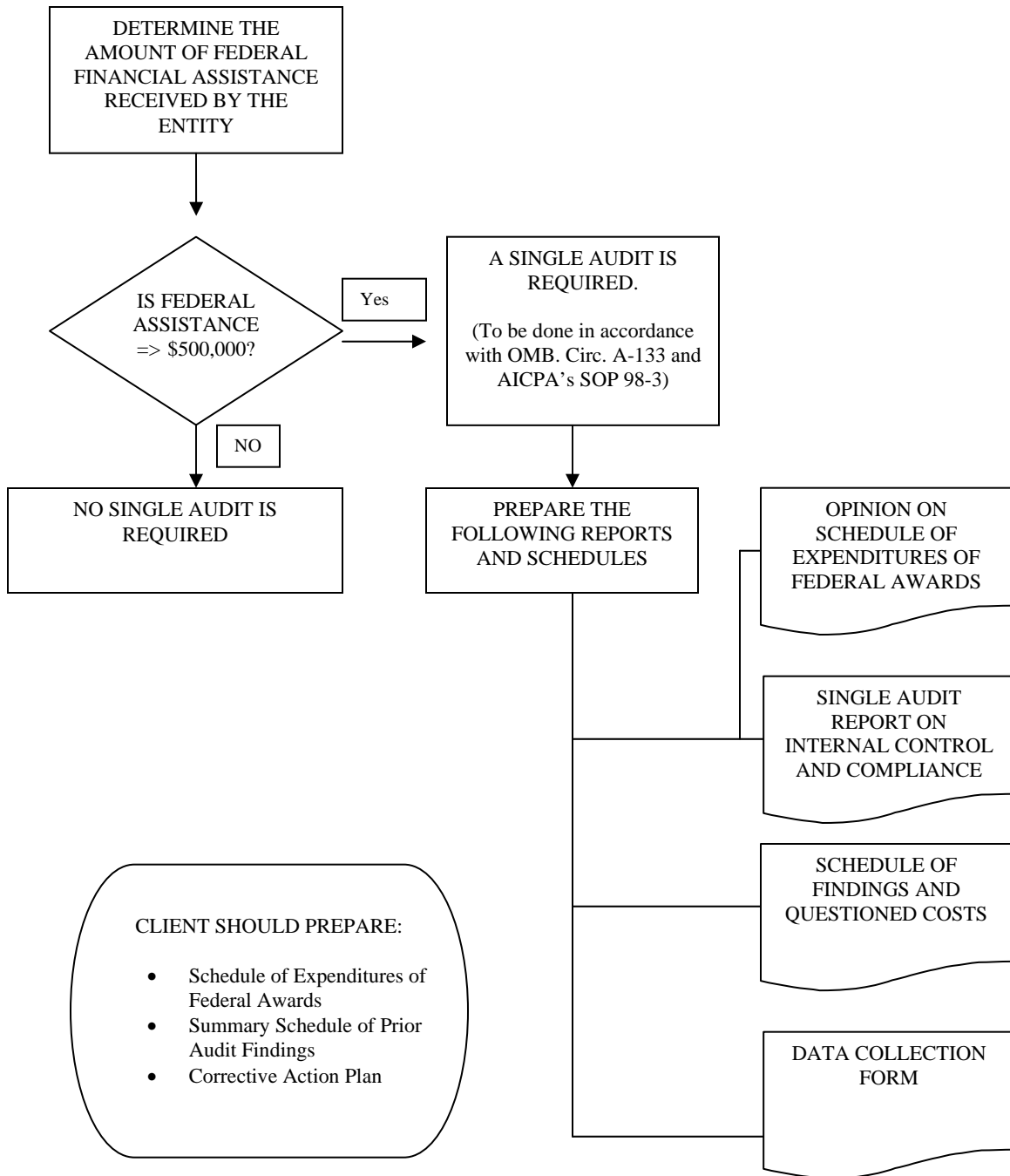
Reference: APP B-1
Page: 2 of 2
Subject: Subrecipient and Vendor Determinations

D. Compliance Responsibility for Vendors:

In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP B-2
Page: 1 of 1
Subject: Flowchart of Single Audit Requirements



STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Appendix C: Miscellaneous:

Table of Testwork and Reports Required	App C-1
Flowchart of Testwork and Reports Required - Governmental Units	App C-2
Flowchart of Testwork and Reports Required - Nonprofit Corporations	App C-3
Rules - Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations	App C-4
School District Fall Enrollment and Student Membership Reporting	App C-5
Adult Education Agreed-Upon Procedures Engagement and Adult Education Summary Report	App C-6

STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-1
Page: 1 of 1
Subject: Table of Testwork and Reports Required

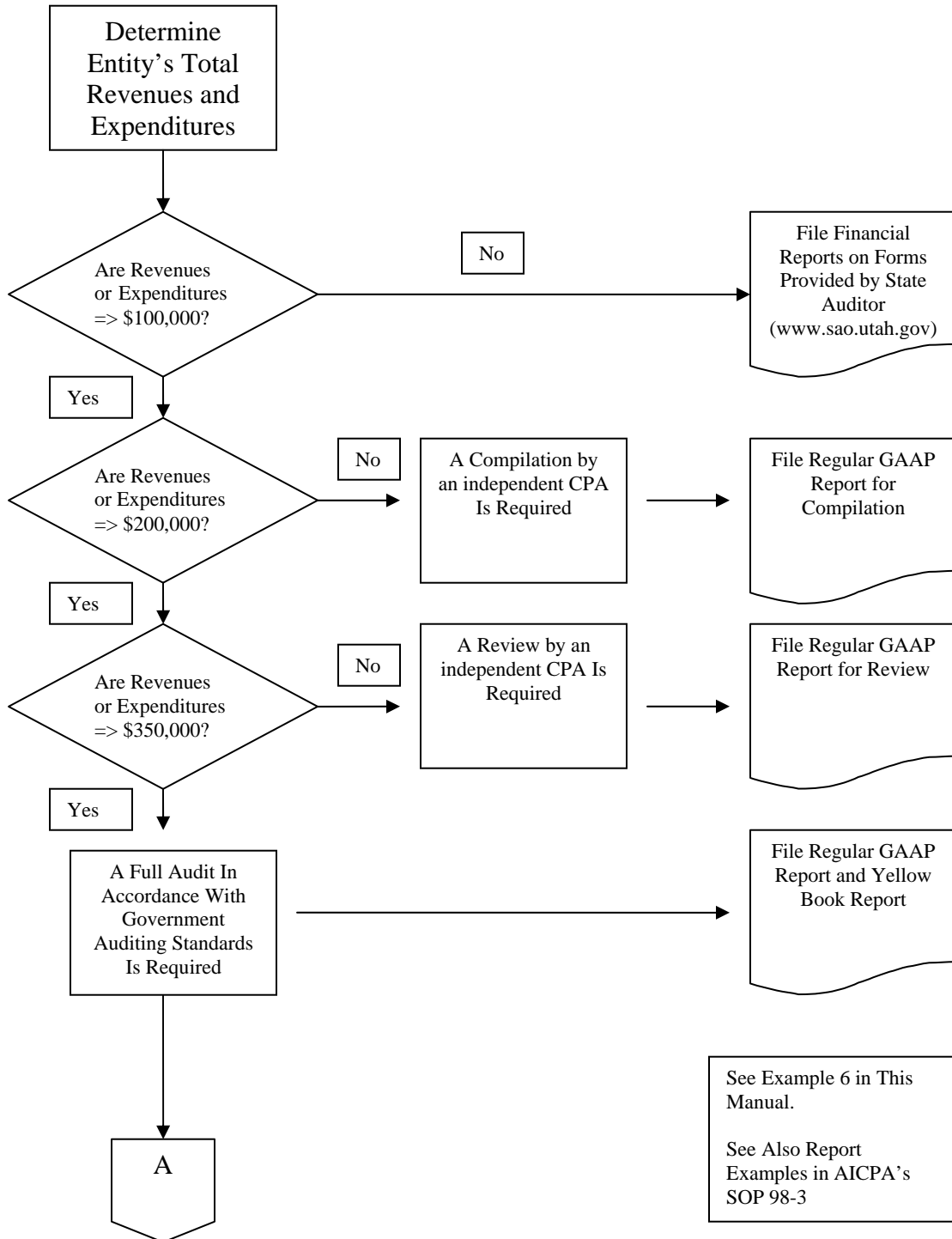
	DESCRIPTION	1	2	3	4	5	6	7	8
A	Total revenues and expenditures are less than \$100,000			X					
B	Total revenues and expenditures are greater than \$100,000 but less than \$200,000 - No major State grants are received				X				
C	Total revenues and expenditures are greater than \$200,000 but less than \$350,000 - No major State grant is received					X			
D	Total revenues or expenditures are greater than \$350,000 - No State grants are received	X					X	X	X
E	Total revenues or expenditures are greater than \$350,000 - One or more State grants are received, but all are nonmajor grants	X					X	X	X
F	Total revenues or expenditures are greater than \$350,000 - One or more State grants are received, including both major and nonmajor grants	X	X				X	X	X

COLUMN DESCRIPTIONS:

1. Testwork on general compliance is required. (Only required for governmental entities - General compliance requirements do not apply to certain nonprofit organizations.)
2. Testwork on specific compliance is required.
3. File financial reports on forms provided by the Office of the Utah State Auditor (located on their website at www.sao.utah.gov).
4. A compilation performed by a Certified Public Accountant must be filed with the Office of the Utah State Auditor.
5. A review performed by an independent Certified Public Accountant must be filed with the Office of the Utah State Auditor.
6. An audit of the entity's financial statements must be performed by an independent Certified Public Accountant licensed to practice in Utah. A copy of the audited financial statements must be filed with the Office of the Utah State Auditor.
7. A report on state legal compliance is required to be submitted with the financial report. A copy of the auditor's management letter (with a response from the governing body) is also required if there are any other State compliance issues noted during the audit (regardless of materiality). (Note, however, that a State compliance report is not required of nonprofit organizations that do not have major state grants.)
8. A report on compliance and on internal control over financial reporting based on an audit of financial statements performed in accordance with *Government Auditing Standards* is required to be submitted with the financial report. This report should include findings regarding material weaknesses in internal controls noted during the audit.

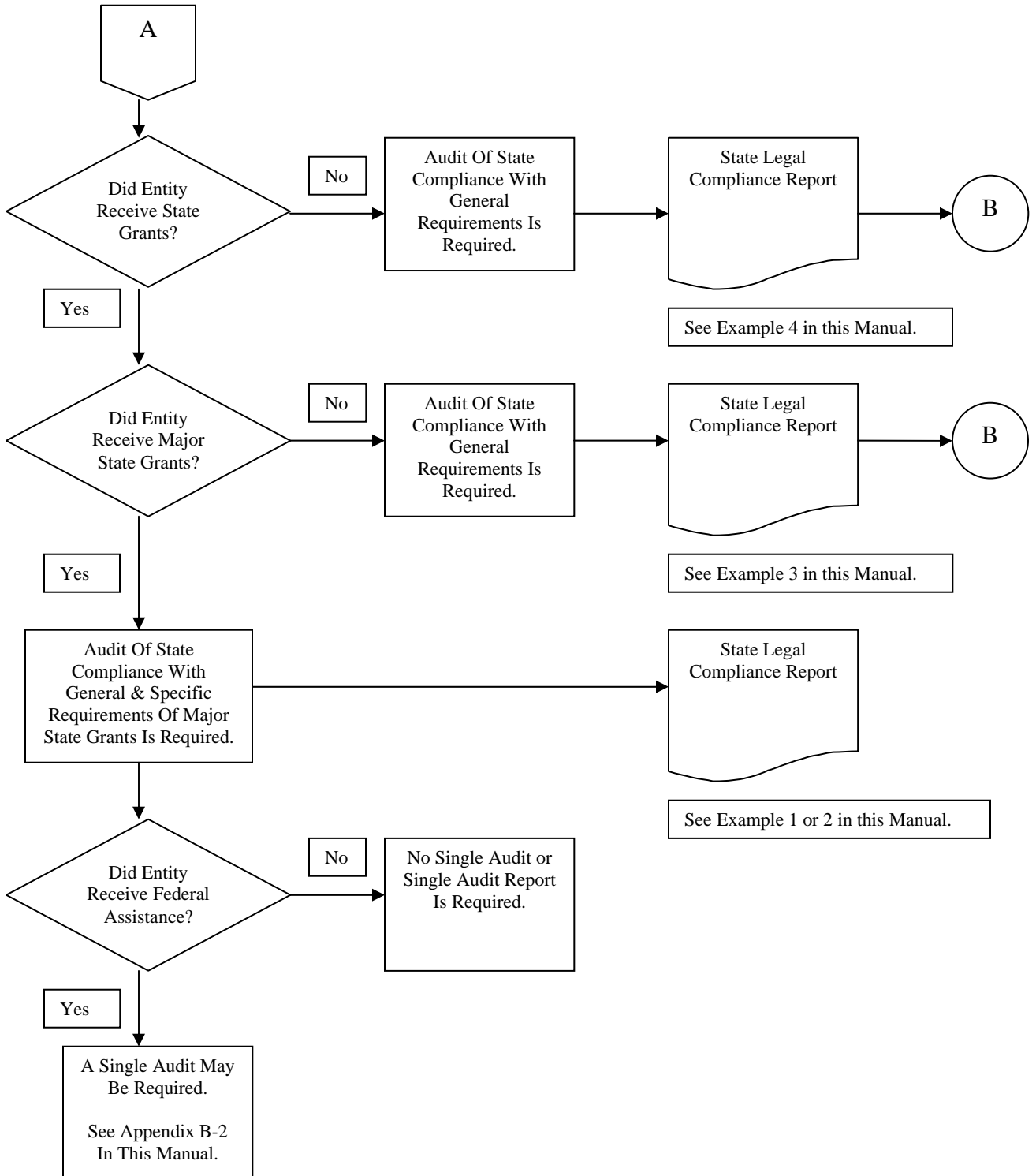
STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-2
Page: 1 of 2
Subject: Flowchart of Testwork and Reports Required – Governmental Units



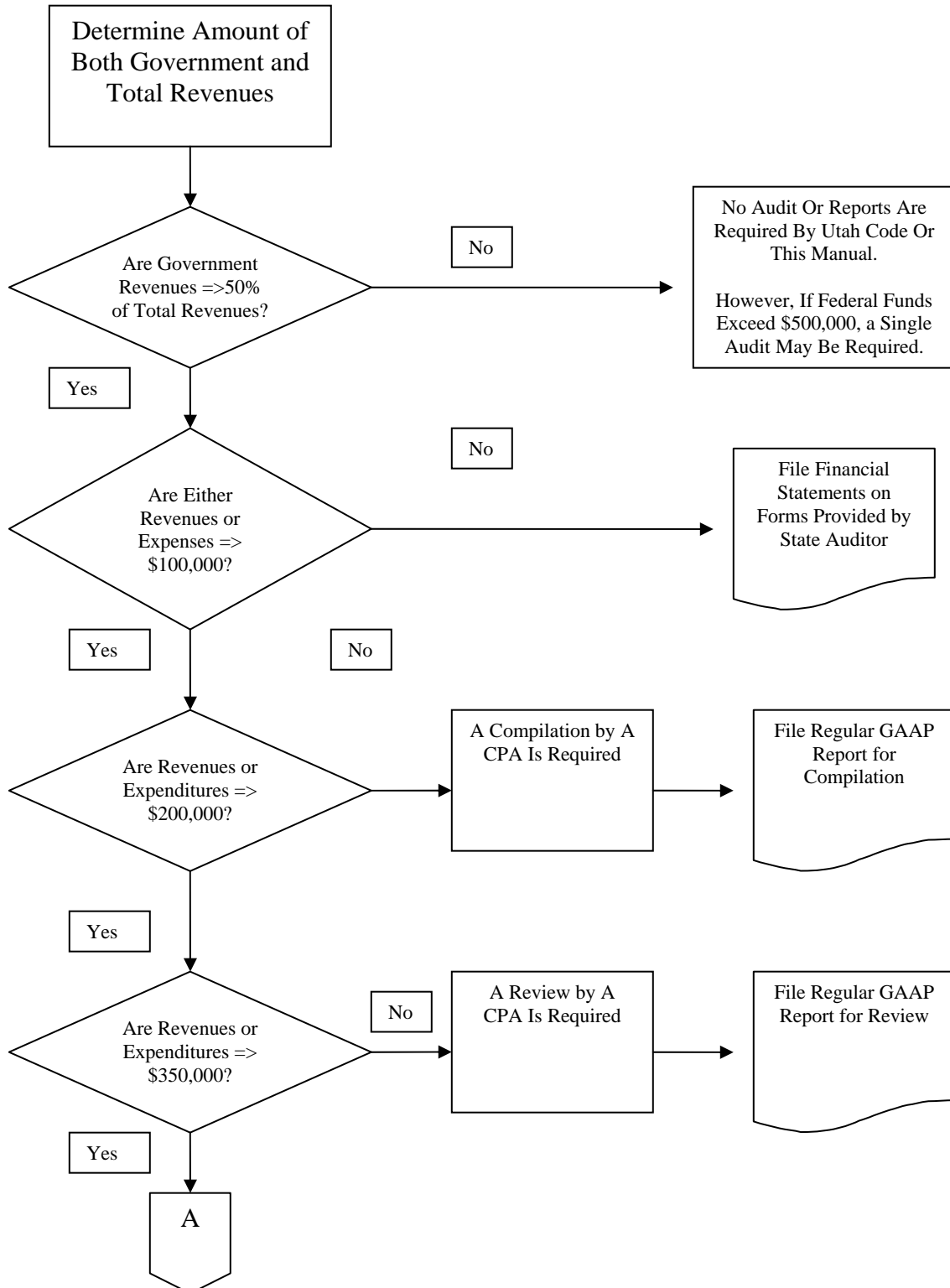
STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-2
Page: 2 of 2
Subject: Flowchart of Testwork and Reports Required – Governmental Units



STATE OF UTAH LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-3
Page: 1 of 2
Subject: Flowchart of Testwork and Reports Required – Nonprofit Corporations

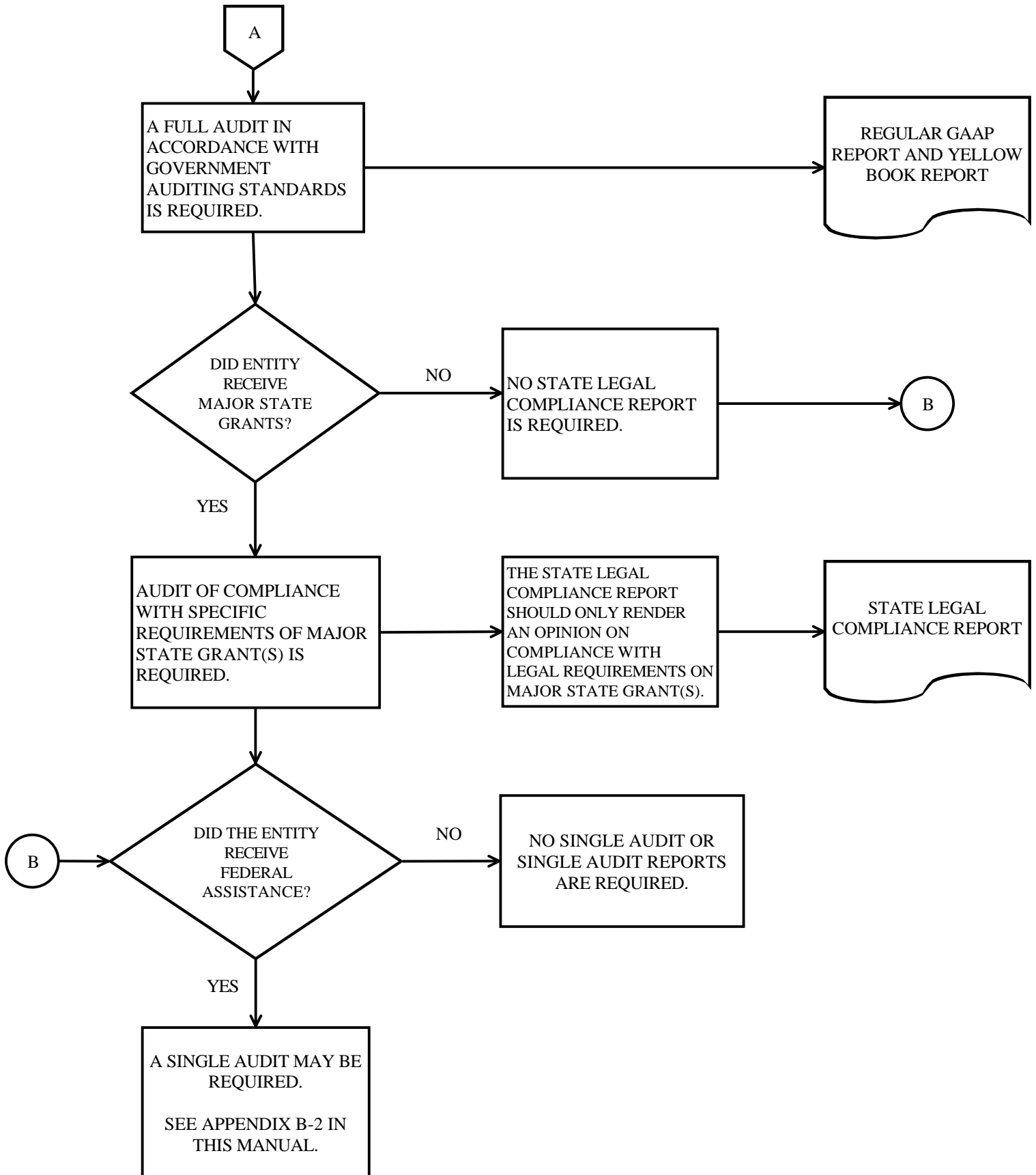


STATE OF UTAH
LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-3

Page: 2 of 2

Subject: Flowchart of Testwork and Reports Required - Nonprofit Corporations



STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-4
Page: 1 of 2
Subject: Utah Administrative Code R123-5 – Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations

R123-5-1. Authority.

1. As required by Section 51-2a-301, this rule provides the guidelines, qualifications criteria, and procurement procedures for audits required to be made by Section 51-2a-201.

R123-5-2. Definitions.

1. "Auditor" means a certified public accountant licensed to conduct audits in the state and includes any certified public accounting firm as defined by Section 58-26a-102.
2. "Political subdivision" means all cities, counties, school districts, special districts, interlocal organizations, and any other entity established by a local governmental unit that receives tax exempt status for bonding or taxing purposes.
3. "Nonprofit organization" means any corporation created under Chapter 16-6a.

R123-5-3. Audit Standards and Requirements.

1. The audits of all entities required to have an audit made by Section 51-2a-201 shall be performed in accordance with Government Auditing Standards most recently published and issued by the Comptroller General of the United States.
2. The State Auditor shall adopt and maintain a legal compliance audit guide containing those fiscal laws and compliance requirements for state funds distributed to, and expended by, political subdivisions and non-profit organizations. This legal compliance audit guide may specify:
 - a. which grants and programs shall be considered major grants, and the compliance requirements which must be tested by the auditor,
 - b. the general compliance requirements applicable to all political subdivisions, and the audit requirements applicable to general compliance requirements,
 - c. the format for the auditor's statement expressing positive assurance with state fiscal laws identified by the State Auditor, and
 - d. those items related to internal controls and other financial issues which shall be included in the auditor's letter to management that must be filed with the audited financial statements.
3. The audits of all entities required to have an audit made by Section 51-2a-201 shall be performed in accordance with the legal compliance audit guide maintained by the State Auditor.

R123-5-4. Audit Procurement.

The decision to retain an entity's auditor rests with the governing body of the entity. However, the auditor performing the audit must meet the peer review and continuing education requirements of Government Auditing Standards issued by the Comptroller General of the United States. If the governing body rebids the audit of its financial statements, it shall comply with the following audit procurement requirements:

- a. Proposals will be obtained from any interested and qualified certified public accountant licensed to perform audits in the state, which may include the auditor currently performing the entity's

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-4
Page: 2 of 2
Subject: Utah Administrative Code R123-5 – Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations

- audit. Notice may be given to potential auditors either through invitation or by notice published in a newspaper of general circulation. To promote competition it is recommended that at least three auditors be invited to participate in bidding for the audit.
- b. The entity shall distribute a "request for proposal" to all auditors who meet the qualification criteria set by the procuring organization interested in bidding for the audit. As a minimum, the request for proposal shall contain the following:
- (i) the name and address of the entity requesting the audit and its designated contact person,
 - (ii) the entity to be audited, the scope of services to be provided, and specific reports, etc. to be delivered,
 - (iii) the period to be audited,
 - (iv) the format in which the proposals should be prepared,
 - (v) the date and time proposals are due, and
 - (vi) the criteria to be used in evaluating the bid.
- c. The entity may select the auditor or audit firm that the governing body desires to perform its audit and may reject any bid.

R123-5-5. Responsibility for Audit Quality.

1. The governing body of each political subdivision is responsible to ensure that the political subdivision obtains a quality audit of its financial records.
2. The governing body may appoint an audit committee with the responsibility of making recommendations to the governing body for selection of an auditor, ensuring that the auditor meets qualification requirements, and ensuring that the auditor complies with professional standards.
3. If the governing body appoints a separate audit committee, then the governing body shall review the recommendations of the audit committee and make the selection of the auditor.
4. The audit committee will report its assessment of the auditor's compliance with professional standards to the governing body.
5. The auditor shall report the results of the audit to the governing body.
6. The governing body shall respond to the specific recommendations included in the auditor's letter to management. This response shall be remitted with the audited financial statements to the state auditor.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 1 of 13
Subject: School District Fall Enrollment and Student Membership Reporting Utah
State Office of Education (USOE), Division of Agency Services, School Finance
& Statistics Section

Source of Regulations: Utah State Board of Education Rule R277-419 Pupil
Accounting (as in effect on January 7, 2011)

Information Contact: Emily Eyre (801-538-7671)
emily.eyre@schools.utah.gov

Effective Date: Year Ending 30 June 2011

NOTE: In the following text “school district” or “district” also means “charter school.”

1. BACKGROUND

1.1. Minimum School Program (MSP) funds are allocated to school districts by the School Finance and Statistics Section of the Utah State Office of Education (USOE).

1.2. Compliance requirements related to the MSP funds are addressed in section SOE-1 of this *Compliance Audit Guide*.

1.3. Allocations are based on formulas provided by the Minimum School Finance Act, most of which rely on prior year average daily membership (ADM), which is derived from aggregate membership, plus a growth factor, which is derived from fall enrollment counts.

1.4. Aggregate membership and enrollment records are submitted for each student annually by school districts to the USOE as electronic text files via the Data Clearinghouse at Year End for the prior year (by July 7) and in the Fall as of the first school day in October (by October 15), respectively.

1.5. The USOE generates school and district level summary reports out of the individual student detail data in the Clearinghouse files. These summary reports — in particular, the aggregate membership section of the *Year End Clearinghouse Report* and the enrollment section of the *Fall Clearinghouse Report* — serve as statements of assertions by the district.

1.6. Traditionally, independent accountants have also been asked to examine records on dropouts. However, users of dropout data have expressed increasing interest in knowing whether students who leave school early and are not classified as dropouts are truly “transfer” students. The emphasis in these agreed upon procedures has accordingly shifted to focus on whether adequate documentation exists locally to support district claims regarding the exit status of such students.

1.7. The USOE requires all school districts to contract with public accounting firms to perform certain agreed-upon procedures regarding this data. The procedures to be performed, as determined by the USOE, are described in this section of the *Compliance Audit Guide*. The contract between the school district and the independent accountant should clearly identify the

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 2 of 13
Subject: School District Fall Enrollment and Student Membership Reporting Utah
State Office of Education (USOE), Division of Agency Services, School Finance
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agreed-upon procedures to be performed, and those procedures should be consistent with the guidance in this section.

1.8. The procedures performed and reports issued by the independent accountants should meet the standards for attestation engagements established by the American Institute of Certified Public Accountants (AICPA) and the standards applicable to attestation engagements contained in *Government Auditing Standards* (July 2007 revision), issued by the Comptroller General of the United States. The relationship of these standards is described in paragraph 1.15(a) of *Government Auditing Standards*:

“For attestation engagements, GAGAS [generally accepted government auditing standards] incorporate the AICPA general standard on criteria, and the field work and reporting standards and the related Statements on Standards for Attestation Engagements (SSAE) unless specifically excluded or modified by GAGAS. GAGAS describe ethical principles, and establish independence and other general standards, and additional field work and reporting standards beyond those provided by the AICPA for performing financial audits and attestation engagements.”

Chapters 1 through 3 and 6 of *Government Auditing Standards* apply to attestation engagements.

2. OBJECTIVE

2.1. To identify sources of errors in recording and reporting nonfiscal data for the purpose of making continuous improvements to the quality of student accounting systems.

3. STANDARDS FOR RECORDING AND REPORTING STUDENT DATA

3.1. Standards for organizing and maintaining a student accounting system and for reporting pertinent to these agreed upon procedures are found principally in two documents:

3.2. State Board of Education rule R277-419 on “Pupil Accounting” contains the legal standards and is found at <http://www.rules.utah.gov/publicat/code/r277/r277-419.htm>.

3.3. The USOE “Data Clearinghouse Update Transactions” file layout contains the technical standards and is found at <http://www.schools.utah.gov/computerservices/Data-Clearinghouse.aspx>.

3.4. The following parts of the Data Clearinghouse document are the most relevant to the purposes of these agreed upon procedures:

- Student Record (S1) Exit Code field — this is the reason why the student left school before the end of the school year
- Student Record (S1) School Membership field — this is “regular” membership

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: School District Fall Enrollment and Student Membership Reporting Utah
State Office of Education (USOE), Division of Agency Services, School Finance
& Statistics Section

- SCRAM (S2) Membership field — this is special education membership
- SCRAM (S2) Time field — note the distinction between “self contained” and “resource” types of special education students
- YIC (S3) Record – this is youth in custody membership

3.5. In addition to reading the above mentioned documentation, the independent accountant should also become familiar with the district’s data management policies and practices, especially as these impact the district’s production and submission of the Year End and Fall Clearinghouse files to the USOE.

4. AGGREGATE MEMBERSHIP:

Agreed-upon Procedures to be Performed by the Independent Accountant

4.1. Select schools in the district such that each school is included in the sample at least once every five years; if feasible, a shorter cycle, such as once every three years, would be preferable.

4.2. Visit each school in the sample if feasible. Otherwise visiting the district office is acceptable. In either case the visit should be made prior to the final submission of the Year End Clearinghouse file.

4.3. Select a random sample of students in the schools such that the total number of students in the sample is equal to or greater than the following size according to the enrollment of the district on the previous October 1:

<u>Enrollment</u>	<u>Sample Size</u>
40,000 or greater	70
20,000 to 39,999	50
10,000 to 19,999	40
1,000 to 9,999	30
Less than 1,000	20

4.4. For each student in the sample, study the student’s records (the Clearinghouse YE Detail Report) and supporting documentation (particularly for entry and exit dates), identify the student’s aggregate membership as recorded in the records, and determine whether the following rules from R277-419 were properly applied in calculating the student’s aggregate membership:

(a) Ten Day Rule [R277-419-4(A)(1)(c)]

If the student had 10 consecutive school days of unexcused absences, the student’s exit date is not later than the school day after the 10th day of such absences and, consequently, the student did not generate membership from that day on. An “unexcused absence” means an absence charged to a student when the student was not physically present at school at any of the times attendance checks were made during the day in accordance with R277-419-3(B)(3), and the student’s absence could not be accounted for by evidence of a legitimate excuse in accordance with the local board of education policy on truancy as defined in Utah Code 53A-11-101.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

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Subject: School District Fall Enrollment and Student Membership Reporting Utah
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& Statistics Section

(b) School Days Standard Rule [R277-419-3(A); R277-419-4(D)]

This comprises three related equations: (i) the sum of regular plus self-contained special education and self-contained YIC membership days may not exceed 180 days; (ii) the sum of regular and resource special education membership days may not exceed 360 days; and (iii) the sum of regular, ISI-1 and ISI-2 YIC membership days may not exceed 360 days.

(c) Part Time Proration Rule [R277-419-4(C)]

If the student was enrolled for only part of the school day and/or only part of the school year, the student's membership was prorated according to the number of hours or periods the student was actually enrolled in relation to the number of hours or periods the student could have been enrolled. As one example, if the student was in membership 4 periods each day in a 7-period school day for all 180 school days, the student's aggregate membership is 103 days; as another example, if the student was in membership for 7 periods each day in a 7-period day for 103 school days, the student's membership is 103 days.

5. FALL ENROLLMENT COUNT:

Agreed-upon Procedures to be Performed by the Independent Accountant

5.1. Select schools in the district such that each secondary school is included in the sample at least once every four years and each elementary school is included in the sample at least once every nine years; if feasible, a shorter cycle, such as once every three years, would be preferable.

5.2. Visit each school in the sample on the first school day of October. Although the visit may not take place on October 1, the Fall Clearinghouse Report should still be as of October 1.

5.3. Select three to five classes in each school such that the total number of selected classes for all sampled schools is equal to or greater than 5% of the total number of classes in the district during the class period in which classrooms are visited; however, the sample size should not be fewer than five classes.

For each sampled class on that day:

5.4. Conduct a roll call by asking each student in the class to state their name and checking to make sure they are on the roll.

5.5.a. Count the students who actually are *in* the class. A student should be counted as "in the class" if: (a) the student is on the class roll and (b) is either physically present that day and states their name during roll call or (c) if absent, is legitimately enrolled in the class according to the Ten Day Rule.

5.5.b. If the school is a virtual school, a student should be counted as "in the class" if (a) the student has logged in that day, or (b) the student has logged in at least once during the five school days before *and* once during the five school days after the audit date.

STATE OF UTAH

LEGAL COMPLIANCE AUDIT GUIDE

Reference: APP C-5
Page: 5 of 13
Subject: School District Fall Enrollment and Student Membership Reporting Utah
State Office of Education (USOE), Division of Agency Services, School Finance
& Statistics Section

For each sampled school on that day:

- 5.6. Verify the mathematical accuracy of the school's enrollment total in its own records.
- 5.7. As soon as possible after the October 15 deadline for submitting Fall Clearinghouse files, obtain a copy of the district's final *Fall Clearinghouse Report*, which includes a summary of enrollment on October 1 as reported to the USOE by the district for each school as well as for the district as a whole. (If this report is not available from the district, contact Jennifer Yates-Givens at Jennifer.yates-givens@schools.utah.gov or 801-538-7674 for a copy.)
- 5.8. Compare the verified school enrollment total to the reported enrollment total in the *Fall Clearinghouse Report*.
- 5.9. Give a brief explanation of any significant difference found between the verified school enrollment total and the reported enrollment total.
- 5.10. Verify that the school calendar (the time school was in session) meets the minimum instructional standard of 990 hours and 180 days according to R277-419-3(A).
- 5.11. Use the appropriate illustrative report at the end of this document as a model for writing a formal summary of your findings and report complete details of your findings for each class and school in the sample in the format specified under the "Fall Enrollment" tab of the APP C-5 (The Sample Schedules spreadsheet is available from Emily Eyre at Emily.eyre@schools.utah.gov or 801-538-7671).
- 5.12. Do not estimate enrollment for any class or school or for the district as a whole. Any adjustments to enrollment in light of the compliance findings for the purpose of allocating funds will be made at the discretion of the USOE in response to a formal request for consideration by the district, specified in Section 9.

6. TRANSFER STUDENT DOCUMENTATION: Agreed-upon Procedures to be Performed by the Independent Accountant

- 6.1. Select secondary schools that offer any Grades 9- 12 such that each school is included in the sample at least once every four years; if feasible, a shorter cycle, such as once every three years, would be preferable. These may be the same schools which were selected for the purpose of applying agreed-upon procedures for Fall Enrollment in 5.1.
- 6.2. Obtain a copy of the *Transfer Students List* (from the prior Year End upload of the Clearinghouse), which contains students, organized by school, who were:
 - (a) enrolled in grades 9 through 12; but
 - (b) not enrolled on the last day of the school year; and
 - (c) classified by the district as:
 - TC – transferred out of the country;

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- TH – transferred to home schooling;
- TO – transferred out of the state; or
- TP – transferred to a private school
- DE – death
- FE – foreign exchange student (If this report is not available from the district, contact Jennifer Yates-Givens at jennifer.yates-givens@schools.utah.gov or 801-538-7674 for a copy.)

6.3.(a) Select a random sample of students across all sampled high schools from this list according to the following table (based on Mil-STD-105E [May, 10, 1989] for a 4% error rate with a single sample under normal inspection):

Transfer Students in

Student Population	Sample Size	Acceptable Quality Level (AQL)
1	1	the student must have adequate documentation
2-8	2	all sampled students must have adequate documentation
9-15	3	all sampled must have adequate documentation
16-25	5	all sampled must have adequate documentation
26-50	8	no more than 1 sampled without adequate documentation
51-90	13	no more than 1 sampled without adequate documentation
91-150	20	no more than 2 sampled without adequate documentation
151-280	32	no more than 3 sampled without adequate documentation
281-500	50	no more than 4 sampled without adequate documentation
501-1200	80	no more than 7 sampled without adequate documentation

(b) A carefully applied systematic sampling approach will effectively achieve the same result as random sampling and may be used when it is more convenient.

6.4.(a) For each student in the sample, determine whether official written documentation exists to support the district's recorded exit code. According to currently available federal guidance (Federal Register, October 29, 2008, p. 64452), “Official written documentation that a student transferred out may include several different types of documentation, such as a request for records from the receiving high school; an approved application for home schooling or distance education; evidence of a transfer that is recorded in a State’s data system; or a letter from an official in the receiving school acknowledging the student’s enrollment. Documentation must be in writing rather than a telephone conversation or other verbal communication with a parent, relative, or neighbor so that the transfer can be verified through audits or monitoring . . . With respect to students who . . . have emigrated to another country, the . . . LEA also must confirm this fact in writing but need not obtain official documentation. For example, written confirmation

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of a student who has emigrated might include a school administrator's memo to the student's file, based on a phone conversation with a parent, stating that the student is leaving the country." Students who have moved to another country either temporarily (such as a foreign exchange student) or permanently must have written documentation. In addition, "A school or LEA must have written confirmation that a student is deceased before removing the student from the school. A letter from a parent or an obituary is sufficient documentation. Official written documentation of a student's death, such as a death certificate, is not necessary." Note: Where appropriate, written documentation may be electronic and in the Student Information System (SIS).

(b)(i) Normally, a situation in which a student leaves a charter school for home schooling should be handled in this way: The charter school exits the student as a transfer to another LEA within the state (TS), notifies the school district in which the student resides of the student's change in enrollment status, provides the district with the student's records and parental contact information, and urges the parent to submit to the district the "signed affidavit" required by Utah Code 53A-11-102. In turn, the district enrolls the student, follows up with the parent to obtain the affidavit, and, finally, exits the student to home schooling (TH). In this case, the auditor of a charter school should contact the district to verify that a signed affidavit is on file.

(ii) In cases where an affidavit is not on file, the charter school may (have) exit(ed) the student directly to home schooling and should be able to produce written evidence of a good faith effort to do its part in properly accounting for the student.

(iii) As the auditor was not engaged by the school district in question, in no case should the audit report include any statement regarding compliance by the district.

(c) According to currently available federal guidance, "Unless a school or LEA can confirm in writing that a student has transferred out, emigrated to another country, or is deceased, the school or LEA must consider that student to be in the originating school's population.

6.5. Record in the body of the audit report one of the following conclusions about transfer student documentation in the LEA according to your findings:

(a) If the LEA does not serve any of grades 9 through 12, state "The transfer student documentation audit does not apply because the LEA does not serve any of grades 9 through 12."

(b) If the LEA does serve any of grades 9 through 12 but did not report any transfer students in any of those grades, state "The transfer student documentation audit cannot be applied, because no transfer students were reported in the school year."

(c) If the AQL is met, state: "Transfer student documentation meets the acceptable quality level established by the USOE."

(d)(i) If the AQL is not met, state: "Transfer student documentation does not meet the acceptable

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quality level established by the USOE.”

(ii) If the AQL is exceeded before all sampled students have been tested, you may stop testing and make the same statement as in (d)(i).

6.6. Use the appropriate illustrative report at the end of this document as a model for recording complete details of your findings for each student in the sample in the format specified under the “Transfer Student” tab of the APP C-5. (The Sample Schedules spreadsheet is available from Emily Eyre.)

7. REPORTING ADDITIONAL FINDINGS AND DISTRICT’S RESPONSE TO FINDINGS

7.1. The independent accountant is encouraged to include other findings and recommendations related to improving weaknesses in district data management or noncompliance with reporting standards or with the procedures themselves. Also consider the additional reporting standards for attestation engagements found in *Government Auditing Standards* (see paragraph 6.31).

7.2. When the independent accountant’s report includes findings or recommendations, the district is expected to respond. The response can either be included within the independent accountant’s report, if the accountant is reporting on what the district has already done or as a brief attachment to the report, if the district is stating what it will do to correct the situation.

8. INDEPENDENT ACCOUNTANT’S AGREED UPON PROCEDURES REPORT

8.1. A copy of the agreed-upon procedures report, spreadsheet containing findings on each case in the sample, additional written findings, and the district’s response, as applicable, must be received by the USOE by 5:00 p.m. MST on the following dates (if the date falls on a weekend, the deadline shifts to the next workday):

- Aggregate Membership: September 15
- Fall Enrollment Count: November 1
- Transfer Student Documentation: November 1

8.2. Reports may be submitted via post, fax or email:

POST

Attn: Emily Eyre
Finance and Statistics Section
Business Services Division
Utah State Office of Education
250 East 500 South
P O Box 144200

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Salt Lake City, Utah
84114-4200

FAX

To the attention of Emily Eyre at 801-538-7729.

EMAIL

To Emily Eyre at emily.eyre@schools.utah.gov.

8.3. If a report does not conform to the procedures specified in this guide it may be rejected.

8.4. If a report is not received by the specified time, the USOE will begin the process of withholding the district's allotted monthly funds consistent with the authority granted to the State Board of Education under Utah Code 53A-1-403(B).

8.5. If local records are not in a condition to support application of the agreed upon procedures, the independent accountant should, in lieu of the aforementioned report, submit a statement on firm letterhead describing the reason(s) why the procedures could not be performed.

8.6. This report shall become part of the permanent records of both the district and the USOE.

9. REQUEST FOR CONSIDERATION

9.1 If, as a consequence of the agreed-upon procedures or further review of its student accounting system, a district would like to make an adjustment to statistics — that is, to aggregate data already in the possession of the USOE based on individual data previously reported by the district — that may have a material impact on the district's allocation of funds, the district may submit a formal request for consideration to the USOE.

9.2 Evidence supporting the adjustment must be documented in the body of or as an attachment to the audit report and be received by the USOE by the deadlines specified above. The actual request may be made by email over the "signature" of either the district superintendent or business administrator (or their charter school equivalents).

9.3 The USOE will review all such requests for consideration together with audit reports during its regularly scheduled audit report review meetings in September (for the Year End Clearinghouse Report and Year End Web Survey) and November (for the Fall Enrollment Clearinghouse Report).

9.4 Submission of a request does not guarantee that an adjustment will be made. Moreover, adjustments to aggregate data will not be reflected in the underlying individual data stored in the USOE Data Warehouse. In either case, districts will be notified via email of the decision of the USOE. The USOE also retains the right to adjust statistics when warranted by the findings of an audit in the absence of a request from the district.

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Illustrative Independent Accountant's Report on Applying Agreed-Upon Procedures Regarding Compliance with Pupil Accounting Rules for Aggregate Student Membership

Board of Education¹
_____ School District (District)¹

We have performed the procedures established by the Utah State Office of Education, as documented in the *State of Utah Legal Compliance Audit Guide, Appendix C-5*, and enumerated below, which were agreed to by you, solely to assist the Utah State Office of Education and you in evaluating _____ School District's compliance with the Utah State Office of Education's rules for pupil accounting for aggregate membership for the year ended June 30, 200X. Management is responsible for the District's compliance with those requirements. This agreed-upon procedures engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. The procedures that we performed and our findings are summarized as follows:

1. We familiarized ourselves with the standards established by the Utah State Board of Education and the Utah State Office of Education for recording and reporting student data and the District's data management policies and practices.
2. We selected a sample of ___ students from selected and visited schools. Our sample is reported in the attached schedule.
3. For each student sampled, we studied the student's records and supporting documentation, identified the student's aggregate membership as recorded in the records, and determined whether the rules from R277-419 were properly applied in calculating the student's aggregate membership. See attached schedule for any exceptions.²
4. For any student sampled whose reported aggregate membership is based on any violation of R277-419, we recalculated aggregate membership to determine the correct figure. See attached schedule for any exceptions.²

We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[When any of the matters set forth in Paragraph 6.31 of the Yellow Book have been identified in conjunction with this agreed-upon procedures engagement, the following paragraph would be added.]³

In accordance with *Government Auditing Standards*, we are required to report significant deficiencies in internal control, identifying those considered to be material weaknesses; all instances of fraud and illegal acts unless inconsequential; and violations of provisions of contracts or grant agreements and abuse are could have a material effect on the District's aggregate membership data reported to the USOE that come to our attention during our agreed-upon procedures. We are also required to obtain and report the views of responsible officials on those matters. Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of responsible officials, are described in the attached Schedule of Findings. [Identify significant deficiencies in internal control considered to be material weaknesses and list the criteria, condition, cause, effect or potential effect, and views of responsible officials for each finding in an attached Schedule of Findings.]⁴

This report is intended solely for the Utah State Board of Education, management of the District, and those specifically required by the filing and distribution requirements of the Utah State Office of Education and is not intended to be and should not be used by anyone other than those specified parties.

(Firm's Signature)

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Report Date

¹ For a Charter School, revise references to School District and Board of Education, as appropriate.

² If exceptions are noted, describe the findings here or refer to where the findings are reported. The District's response can be included here or refer to where the response is reported. See Section 7. for further guidance on reporting exceptions, errors, or discrepancies.

³ Paragraph 6.31 of *Government Auditing Standards* covers additional reporting requirements such as (a) reporting practitioner's compliance with generally accepted governmental auditing standards; (b) reporting deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse; (c) reporting views of responsible officials; (d) reporting confidential or sensitive information; and (e) distributing reports.

⁴ Refer to paragraphs 6.42-.43 of *Government Auditing Standards* regarding the content of the schedule of findings.

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Illustrative Independent Accountant's Report on Applying Agreed-Upon Procedures Regarding Compliance with Pupil Accounting Rules for Fall Enrollment Count and Transfer Student Documentation

Board of Education¹
_____ School District (District) ¹

We have performed the procedures established by the Utah State Office of Education, as documented in the *State of Utah Legal Compliance Audit Guide, Appendix C-5*, and enumerated below, which were agreed to by you, solely to assist you in evaluating _____ School District's compliance with the Utah State Office of Education's rules for pupil accounting for fall enrollment count and transfer student documentation for the year ended June 30, 200X. Management is responsible for the District's compliance with those requirements. This agreed-upon procedures engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of the specified users of the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. The procedures that we performed and our findings are summarized as follows:

Fall Enrollment Count

1. We visited ___ classes in ___ schools in the District on the first school day of October 200X. Our sample is reported in the attached schedule.
2. We counted the students in each class and compared our counts to the class rolls for that day and verified that students who were not present for the count were appropriately enrolled in the class. See attached schedule for any exceptions.²
3. We also compared individual class rolls in the sample to the school's summary records for the classes that day. See attached schedule for any exceptions.²
4. Finally, we verified the mathematical accuracy of the total enrollment for each school in the sample that day and compared the verified totals to the enrollment total for the same schools in the Fall Clearinghouse Report. See attached schedule for any exceptions.¹

Transfers

1. From the Transfer Student List, we selected a sample of ___ students who were enrolled in grades 9 through 12, but not enrolled on the last day of the school year, and not classified by the District as either high school completers or dropouts.
2. For the sample of students, we determined whether adequate documentation exists to support the District's claim that the student was not a dropout. See attached schedule for any exceptions.²

Conclusion

[Select appropriate wording from 6.5 of this guide.]

We were not engaged to, and did not, perform an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[When any of the matters set forth in Paragraph 6.31 of the Yellow Book have been identified in conjunction with this agreed-upon procedures engagement, the following paragraph would be added.]³

In accordance with *Government Auditing Standards*, we are required to report significant deficiencies in internal control, identifying those considered to be material weaknesses; all instances of fraud and illegal acts unless inconsequential; and violations of provisions of contracts or grant agreements and abuse are could have a material effect on the District's fall

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enrollment and dropout data reported to the USOE that come to our attention during our agreed-upon procedures. We are also required to obtain and report the views of responsible officials on those matters. Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of responsible officials, are described in the attached Schedule of Findings. [Identify significant deficiencies in internal control considered to be material weaknesses and list the criteria, condition, cause, effect or potential effect, and views of responsible officials for each finding in an attached Schedule of Findings.]⁴

This report is intended solely for the Utah State Board of Education, management of the District, and those specifically required by the filing and distribution requirements of the Utah State Office of Education and is not intended to be and should not be used by anyone other than those specified parties.
(Firm's Signature)

Report Date

¹ For a Charter School, revise references to School District and Board of Education, as appropriate.

² If exceptions are noted, describe the findings here or refer to where the findings are reported. The District's response can be included here or refer to where the response is reported. See Section 7. for further guidance on reporting exceptions, errors, or discrepancies.

³ Paragraph 6.31 of *Government Auditing Standards* covers additional reporting requirements such as (a) reporting practitioner's compliance with generally accepted governmental auditing standards; (b) reporting deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse; (c) reporting views of responsible officials; (d) reporting confidential or sensitive information; and (e) distributing reports.

⁴ Refer to paragraphs 6.42-.43 of *Government Auditing Standards* regarding the content of the schedule of findings.

APP C-5: Sample Schedules

AGGREGATE MEMBERSHIP AGREED UPON PROCEDURES SCHEDULE

FISCAL YEAR: ending June 30, 200X

AGENCY: Enter the name of the local education agency

ENROLLMENT: Enter the agency's enrollment on October 1, 200x

FIRM: Enter the name of the firm which conducted the agreed upon procedures

CPA: Enter the name and phone number of the accountant principally responsible for the engagement

DATE: Enter the date this schedule was completed

SAMPLE MEMBER				REPORTED AGGR. MEMBERSHIP			ARE ENTRY & EXIT DATES CORRECT?		IS REPORTED AGGREGATE MEMBERSHIP IN COMPLIANCE WITH THESE RULES?:			RECALCULATED AGGR. MEMBERSHIP		
3-Digit School number Assigned by USOE	School Name	Statewide Student ID (SSID)	Local Student ID	Regular	Special Education		Entry Date Correct	Exit Date Correct	4.4(a)	4.4(b)	4.4(c)	Regular	Special Education	
					Self Contained	Resource							Ten Day Rule	School Days Standards Rule

Enter one row for each student in the sample.

Record membership in whole days as found in local records.

Sum each column.

For each rule, record one of the following values:
 Y = Yes, in compliance
 N = No, not in compliance
 X = Not applicable to this student

Record recalculated membership only if there is an "N" indicating an incorrect entry or exit date or noncompliance with at least one of the rules.

APP C-5: Sample Schedules

FALL ENROLLMENT COUNT AGREED UPON PROCEDURES SCHEDULE

DATE: October X, 200X

AGENCY: Enter the name of the local education agency

POPULATION: Enter the total number of classes in the local education agency during the period in which classes were visited

FIRM: Enter the name of the firm which conducted the agreed upon procedures

CPA: Enter the name and phone number of the accountant principally responsible for the engagement

DATE: Enter the date this report was completed

Class Description	INDIVIDUAL CLASS ENROLLMENT	
	5.4 Count of Students on Class Roll (Expected)	5.5 Count of Students in the Class (Actual)

Enter one row for each class
in the sample

SCHOOL	TOTAL ENROLLMENT				SCHOOL CALENDAR	
	5.6 School's School of Record Enrollment as Recorded by School in Own Records (Actual)	5.7 School's Enrollment as reported by LEA via Clearinghouse (Expected)	5.8 Difference Between School's Actual Enrollment and Expected Enrollment	5.9 Explanation of the Difference Noted in 5.8	5.10 Does the school calendar meet the minimum instructional standard of 990 hours? Y/N	5.11 Does the school calendar meet the minimum instructional standard of 180 days? Y/N
School Name						

Enter one row for each school
in the sample

APP C-5: Sample Schedules

TRANSFER STUDENT DOCUMENTATION AGREED UPON PROCEDURES SCHEDULE

FISCAL YEAR: ending June 30, 200X

AGENCY: Enter the name of the local education agency

POPULATION: Enter the total number of students on the **Transfer Students List** that was used as the sampling frame

FIRM: Enter the name of the firm which conducted the agreed upon procedures

CPA: Enter the name and phone number of the accountant principally responsible for the engagement

DATE: Enter the date this report was completed

[1]	[2]	[3]	[4] 6.4	[5]	[6]	[7]
School Name	Statewide Student ID (SSID)	Reported Year End Exit Code 6.2	Is there adequate documentation to support the reported exit code? Y = yes, N = no	Is the exit code correct according to the available documentation? Y = yes, N = no	If [5] is "no" enter the correct exit code	... and write a brief supporting explanation:

Enter one row for each student in the sample.

Enter the exit code from the Transfer Student List

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School Finance & Statistics Section

Source of Regulations: Utah State Board of Education Rule R277-733, *Adult Education Programs* and the *Utah Adult Education Policies and Procedures Guide*

Information Contact: Marty Kelly (801-538-7824)
marty.kelly@schools.utah.gov

Effective Date: Year Ending 30 June 2011

1. BACKGROUND

1.1 Minimum School Program (MSP) funds are allocated to school districts by the School Finance and Statistics Section of the Utah State Office of Education (USOE). Compliance requirements related to the Minimum School Program funds allocated to school districts are addressed in section SOE-1 of this *Compliance Audit Guide*. The Minimum School Program allocations are based on formulas provided by the Minimum School Program Finance Act and State Board of Education Rule.

1.2 Federal Adult Education Family Literacy Act (AEFLA) and Department of Workforce Services Refugee funds are awarded to school districts and non-profit community-based organizations as a result of a state competition. Disbursements of funds are reimbursed to the program upon receipt of a reimbursement request and supporting documentation matching approved grant budget amounts.

1.3 To ensure accuracy in the data supplied by the school districts and community-based organizations, the USOE requires all school districts/community-based organizations to contract with an independent accountant to perform certain agreed-upon procedures. The procedures to be performed, as determined by the USOE, are described in this section of the *Compliance Audit Guide*. The contract between the school district/community-based organization and the independent accountant should clearly identify the agreed-upon procedures to be performed and those procedures should be consistent with the guidance in this section of the *Compliance Audit Guide*.

1.4 The procedures performed and reports issued by the independent accountant should also meet the attestation engagements established by the American Institute of Certified Public Accountants (AICPA) and the standards applicable to attestation engagements contained in *Government Auditing Standards* (July 2007 revision), issued by the Comptroller General of the United States. The relationship of these standards is described in paragraph 1.15(a) of *Government Auditing Standards*:

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“For attestation engagements, GAGAS [generally accepted government auditing standards] incorporate the AICPA general standard on criteria, and the field work and reporting standards and the related Statements on Standards for Attestation Engagements (SSAE) unless specifically excluded or modified by GAGAS. GAGAS describe ethical principles, and establish independence and other general standards, and additional field work and reporting standards beyond those provided by the AICPA for performing financial audits and attestation engagements.”

Chapters 1 through 3 and 6 of *Government Auditing Standards* apply to attestation engagements.

1.5 Note: access to the program’s adult education database (UTopia – Utah Online Performance Information for Adult Education) will require the adult education program director and the UTopia Administrator to be present during the program audit, as the system is password protected.

2. OBJECTIVES

2.1 To ensure that information found in the student files maintained by the adult education program agrees/supports student data maintained in UTopia (*finalized by the school districts/community-based organizations by July 15*).

2.2 To ensure that the school district’s/community-based organization’s records for Adult Education meet the requirements of Rule R277-733, *Adult Education Program* and the *Utah Adult Education Policies and Procedures Guide*.

3. AGREED-UPON PROCEDURES TO BE PERFORMED BY THE INDEPENDENT ACCOUNTANT

3.1 Agreed-upon procedures should be performed after the close of the school year. The independent accountant’s agreed-upon procedures report is due to the USOE – Adult Education Services coordinator no later than September 15 for the school year ended June 30. This report will be used in the determination of funding for the second following fiscal year. (For example, the audit of FY 08-09 data will determine FY 10-11 funding.)

3.2 Select “Enrollee Status” students in the UTopia database:

- a. student (instructional and non-instructional) contact hours (validated by UTopia generated Student Total Contact Hour Details report),

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- b. diplomas (validated by UTopia generated Student Official Transcript report and Student Transcript Workup report),
- c. GEDs (validated by UTopia demographic screen separation date or funding code change to 7),
- d. level gains (validated by UTopia generated Complete Test History report),
- e. credits earned (validated by UTopia generated Student Official Transcript report and Student Transcript Workup report), and
- f. proof of residency (validated by UTopia generated Student Proof of Residency report).

Definitions can be found at the end of this Appendix and Rule R277-733. The samples selected should be representative of the student population in the school district's/community-based organization's Adult Education program during the year.

3.3 Each sample should be at least 5% (but need not exceed 20 students) of the program's total "Enrollee Status" enrollment population reflective of students from all of the program's sites. One sample may be used for multiple categories if they are included in the same population. For example, the same sample selected for student information might be used in performing procedures related to contact hours or credits earned.

3.4 The submitted agreed-upon procedures engagement report should validate the program data based upon a comparison of student data files and data entries in UTopia by the school district/community-based organization.

3.5 For each student selected, verify through a review of student files that the following student information entered into UTopia is valid and complete.

- a. Contact hours:

Match the total instructional and non-instructional contact hours entered into UTopia for each "Enrollee Status" student selected.

- 1. For each student selected, obtain the student's attendance record (instructional and non-instructional contact hours maintained by teachers, counselors, registrars, etc.), recalculate the number of instructional and non-instructional contact hours for the student, and verify that the contact hours agree with the hours as reported in UTopia - (UTopia report-Student Total Contact Hour Detail).

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2. Validate for each student selected that the record of non-instructional attendance is maintained by teachers, counselors, registrars, etc., for: assessment, Student Occupation and Education Plan (SEOP) development, and counseling activities reflecting the date that the contact was made, the type of activity, the amount of time spent and by whom the contact was made - (UTopia report-Student Total Contact Hour Detail).
3. Validate for each student selected that a copy of the assessment protocol “face sheet” (that includes the name of the student, birth date, date of the test, name of examiner and the student’s scores) is maintained in the student’s file.

b. Diplomas (Carnegie unit):

For each “Enrollee Status” student selected, verify that the diploma issued properly reflects the school district’s required number of units of credit for graduation.

Match the number of Carnegie-based diplomas reported in UTopia using the following criteria:

1. The record of course credit (as reviewed in the student file) earned while enrolled in the program match the credit entered into UTopia.
2. Copies of other agency (school districts, employer verification, military, etc.) documentation used by the program awarding credit from outside entities is entered in UTopia validating credits issued by the program towards diploma count outcomes.
3. Match using the above stated credit information to validate the awarding of an adult education secondary diploma. Note: all credit (both earned from within the program and awarded from other sources) must be entered into UTopia. The total number of units of credit is validated in UTopia – Student Official Transcript report and Student Transcript Workup report) must match the number of credits required for graduation from a particular school district (as defined on the program’s main “home page” in UTopia), documentation of the credits must be maintained in the student’s file.
4. The student was separated; or
5. If the student continued to receive instruction that the funding code was changed to 7 and the student was enrolled in non-credit bearing ABE or ESOL courses only.

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c. General Education Development (GED) diploma:

For each “Enrollee Status” student selected, verify that the GED was cited on the Student’s “SEOP Student Goals and Statuses” Screen reflecting GED obtainment. Verify that after attainment that:

1. The student was separated; or
2. If the student continued to receive instruction that the funding code was changed to 7 and the student was enrolled in non-credit bearing ABE or ESOL courses only.
 - Demographic Screen – Student Program History (separation date is listed)
 - Demographic Screen - Funding Code History (code set to 7)
3. When reviewing the UTopia credit workup report for the selected student, successful passing of the GED may be used as a replacement for credit up to 5.0 units if the GED Tests were successfully passed and transcribed (in UTopia or as a “hard copy” prior to July 1, 2009). Distribution of credit may only be used as follows: Language Arts = 1.0 if test was taken in English, (if taken in Spanish no credit may be awarded; if the test was taken in English and Spanish then 0.5 credit may be awarded); Math = 1.0; Science = 1.0; Social Studies = 1.0 (geography and world civilization instructional areas only); and elective 1.0 to 5.0 units of credit depending on whether or not the previously mentioned subject areas were already filled by other credit entries. NOTE: if the test was taken in Spanish, the maximum amount of credit that may be awarded is 4.0. If the test was taken in both English and Spanish, then the maximum amount of credit that can be awarded is 4.5.

d. Level gains:

1. For each “Enrollee Status” student file selected, verify that the enrollee has a pre- and post-test(s), as noted in UTopia. Each test protocol must include the student’s name, date of birth, date of test, name of assessor, and the scores obtained.
2. UTopia report – Complete Test History

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e. Credits earned:

For each “Enrollee Status” student file selected, verify that the total number of credits earned in the Adult Education program was properly recorded in UTopia on the Student’s Credit Screen.

1. In review of each selected student file, note that the record of course credit earned while enrolled in the program matches the credit entered into UTopia.
2. UTopia report – Student Official Transcript and Student Transcript Workup

f. Proof of Residency:

For each “Enrollee Status” student selected, verify that Utah residency status has been cited on the student’s Demographic Screen.

1. In review of each selected student file, note that the required documentation for proof of Utah residency matches what is stated on the student’s UTopia demographic screen. Note: this procedure is utilized only when the program is the initial program the student was enrolled in as noted on the student’s demographic screen – “Student Program History”.
2. UTopia report – Student Proof of Residency

3.6 Regarding the “Fees and Tuition Collected in Support of Adult Education Program Report” and controls over collections:

- a. Obtain a copy of the most recent “Fees and Tuition Collected in Support of Adult Education Program” report available at the following website:

<http://www.schools.utah.gov/adulted/directors/reports.htm>

- b. Determine if the report accounts for all collections and whether the report agrees with information recorded in the accounting system. Ensure that fees and tuition collected are used only in the Adult Education program.
- c. For the Adult Education program, obtain an understanding of controls over cash receipts and assess the effectiveness of those controls.

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- d. Compare actual amounts collected to budgeted and prior-year amounts. Investigate any unexpected results (that is, ratios or variations different from what would be expected considering known changes in program activities, number of participants, and tuition and fee rates).

4. REPORTING EXCEPTIONS, ERRORS, OR DISCREPANCIES

4.1 The independent accountant should work with the Adult Education program director to ensure that all errors, differences, in addition to other findings and recommendations to improve weaknesses in a school district's/community-based organization's reporting and accounting of Adult Education information, are discussed and addressed and noted in the agreed-upon procedures report submitted to the school district/community-based organization and the USOE.

4.2 The independent accountant shall meet with the program director to debrief the program director regarding the outcome of the procedures and to discuss specific findings, exceptions, errors or discrepancies and recommendations that will be detailed in the report.

5. INDEPENDENT ACCOUNTANT'S AGREED-UPON PROCEDURES ENGAGEMENT REPORT

5. 1 A copy of the agreed-upon procedures report and the written findings describing exceptions, errors, or discrepancies, if any, shall be filed with the school district/community-based organization board of education or board of directors, the program director, and the USOE adult education coordinator no later than *September 15* of each year. These reports shall become part of the permanent records of the school district/community-based organization and the USOE. A sample agreed-upon procedures report has been included with this Appendix.

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Illustrative Independent Accountant’s Report on Applying Agreed-upon Procedures for Adult Education

Board of Education ¹
_____ School District (District) ¹

We have performed the procedures established by the Utah State Office of Education, as documented in the *State of Utah Legal Compliance Audit Guide*, Appendix C-6, and enumerated below, which were agreed to by you, solely to assist you in evaluating _____ School District’s (District) compliance with the Utah State Board of Education’s Rule R277-733, *Adult Education Programs* and the *Utah Adult Education Policies and Procedures Guide* for the school year ended June 30, 20XX. Management is responsible for compliance with those requirements. This agreed-upon procedures engagement was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. The procedures that we performed and our findings are summarized as follows:

1. Contact hours: **Sample size:** _____

For each “Enrollee Student” student file selected, we obtained the student’s attendance record, recalculated the number of instructional and non-instructional contact hours for the student, and verified that the instructional and non-instructional contact hours agree with the hours reported in the UTopia match.

We matched the total instructional and non-instructional contact hours reported in UTopia for each student selected.

No exceptions were found as a result of applying these procedures. ²

2. Diplomas (Carnegie units): **Sample size:** _____

For each “Enrollee Status” student file selected, we verified that diploma outcomes were properly reported by the number of credits, as required by the diploma issuing program, and that earned and awarded (from sources outside of the adult education program) credits were entered into UTopia.

We matched the total number of diplomas reported in UTopia.

No exceptions were found as a result of applying these procedures. ²

3. General Education Development (GED): **Sample size:** _____

For each “Enrollee Status” student file selected, we verified that the student who received a GED was either separated or their funding code was changed to funding code 7 if they remained in an adult education program for basic literacy instruction as an ABE or ESOL student.

No exceptions were found as a result of applying these procedures. ²

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4. Level gains: **Sample size:** _____

For each “Enrollee Status” student file selected, we (a) verified that the enrollee has a pre- and post-test, as noted in UTopia.

No exceptions were found as a result of applying these procedures. ²

5. Credits earned: **Sample size:** _____

For each “Enrollee Status” student selected, we verified that the total number of credits earned in the Adult Education program was properly noted in the student’s file and awarded/reported on the student’s UTopia Student Official Transcript report and Student Transcript Workup report

We matched the number of earned credits reported in UTopia.

No exceptions were found as a result of applying these procedures. ²

6. Proof of Utah Residency: **Sample size:** _____

For each “Enrollee Status” student selected, we verified that proof of Utah residency was properly documented in the student’s file and matched what was reported on the student’s UTopia Student Demographic screen.

We matched the proof of residency documentation with what was reported in UTopia.

No exceptions were found as a result of these procedures. ²

7. Fees and Tuition Collected in Support of Adult Education Program Report and Controls Over Collections:

We obtained the most recent “Fees and Tuition Collected in Support of Adult Education Program” report. We determined that the report accounts for all adult education fees collected and that the report agrees to the accounting system. We ensured that fees collected are used only in the Adult Education program.

For the Adult Education program, we obtained an understanding of controls over cash receipts and assessed the effectiveness of those controls.

We compared actual amounts collected to budgeted and prior-year amounts. We investigated any unexpected results.

No exceptions were found as a result of these procedures. ²

We were not engaged to, and did not, conduct an examination, the objective of which would be the expression of an opinion on compliance and the data reported in UTopia of _____ School District for the year ended June 30, 20XX. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

[When any of the matters set forth in Paragraph 6.31 of the Yellow Book have been identified in conjunction with this agreed-upon procedures engagement, the following paragraph would be added.] ³

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In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of compliance requirements, and abuse that are material to the _____ School District's Adult Education data reported to the USOE, and any fraud and illegal acts that are more than inconsequential that come to our attention during the performance of our agreed-upon procedures. We are also required to obtain the views of responsible officials on those matters. Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and those findings, along with the views of responsible officials, are described as follows: [List the criteria, condition, cause, effect, and views of management for each finding here.]⁴

This report is intended solely for the information and use of the Utah State Board of Education, management of the District, _____ School District Board of Education and is not intended to be and should not be used by anyone other than these specified parties.

[Firm's Signature]

[Report Date]

¹ For a Community-Based Organization, revise references to School District and Board of Education, as appropriate.

² If exceptions are noted, replace this sentence and describe the findings here or refer to where the findings are reported. The School District's/Community-Based Organization's response can be included here or refer to where the response is reported. See Section 4 of this Appendix for further guidance on reporting exceptions, errors, or discrepancies.

³ Paragraph 6.31 of *Government Auditing Standards* covers additional reporting requirements such as (a) reporting practitioner's compliance with generally accepted governmental auditing standards; (b) reporting deficiencies in internal control, fraud, illegal acts, violations of provisions of contracts or grant agreements, and abuse; (c) reporting views of responsible officials; (d) reporting confident or sensitive information; and (e) distributing reports.

⁴ Refer to paragraphs 6.42-.43 of *Government Auditing Standards* regarding the presentation of findings.

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Validating Utah Adult Education Outcomes

The following is provided as a guide to assist in the testing of items to ascertain program outcomes.

Items to Compare

	UTopia	Paper Trail
Enrollees	UTopia verifies	No verification required
Contact Hours	UTopia report: <u>Student Total Contact Hour Details</u>	<ol style="list-style-type: none"> 1. Verify that classroom “roll books”/teacher maintained attendance sheets etc. = instructional contact hours. 2. Verify that documentation (student log etc.) content/purpose of non-instructional hours = reported non-instructional contact hours in UTopia.
Diploma	UTopia report: <u>Student Official Transcript</u> <u>Student Transcript Workup</u>	<ol style="list-style-type: none"> 1. Verify that all credits earned or awarded in the student’s file are entered in UTopia. 2. Verify that the program graduation requirements are met. 3. Verify that earned and awarded_credit has the required documentation validating completion of course work (including Official GED Report if the GED was used for credit) in the student’s file.
Level Gains	UTopia report: <u>Complete Test History</u>	Verify that assessment protocols’ face sheets (must include student’s name, date of birth, date of test, test administrator’s name, and raw scores maintained in the student’s file matches what was entered in UTopia.)
GED	UTopia report: <u>separation</u> : utilize separation feature on UTopia home page. If student’s name does not appear then he/she has been separated. <u>Funding code</u> : last funding code reported on the student’s demographic screen.	Verify that the student was separated or that their funding code was changed to funding code 7.
Credits	UTopia report: <u>Student Official Transcript</u> <u>Student Transcript Workup</u>	Verify that student’s file contains transcripts from other institutions; GED and other sources of credit records validating both earned and awarded credits.
Proof of Utah Residency	UTopia report: <u>Student Proof of Residency</u>	Proof of Utah residency must be maintained in each student’s file by the student’s first managing program following the parameters as defined in Board Rule R277-733-6. The first manager is noted on the student’s demographic screen –student history.

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DEFINITIONS FOR ADULT EDUCATION PROGRAM

Adult Basic Education (ABE): instruction designed specifically for an native English speaking adult who 1) has minimal competence and basic skills in reading, writing, speaking, problem solving, or computation 2) is not sufficiently competent to meet the educational requirements of adult life in the United States; or 3) is not sufficiently competent to speak, read or write the English language to allow employment commensurate with the adult's real ability. Includes grade levels 0 – 8.9.

ABE includes the following:

ABE 1 (Beginning ABE Literacy): Grade level 0-1.9. Student has no or minimal reading and writing skills, may have little or no comprehension or how print corresponds to spoken language and may have difficulty using a writing instrument, may have little or no recognition of numbers or simple counting skills, may have little or no ability to read basic signs or maps and can provide limited personal information on simple forms, can write a limited number of basic sight words and familiar words and phrases. Student can handle simple routine entry level jobs that require little or no basic written communication or computational skills. No knowledge of computers or technology.

ABE 2 (Beginning Basic Education): Grade level 2.0-3.9. Student can read simple material on familiar subjects; can write simple notes and messages on familiar situations. Student can count, add and subtract three digit numbers, can perform multiplication through 12, can identify simple fractions, and perform other simple mathematical operations; is able to read simple directions, signs and maps, fill out simple forms requiring basic personal information, write phone messages and make simple changes. The student can handle basic entry level jobs that require minimal literacy skills, can read want ads and complete simple job applications.

ABE 3 (Low Intermediate Basic Education): Grade level 4.0-5.9. Student can read text on familiar subjects that have a simple and clear underlying structure, can use context to determine meaning; can write simple paragraphs with a main idea and supporting details on familiar topics. Student can perform with high accuracy all four basic math operations using whole numbers up to three digits and can identify and use all basic mathematical symbols. Student is able to handle basic reading, writing and computational tasks related to life roles such as completing medical forms, order forms, employment applications. Student can qualify for entry level jobs that require following basic written instructions and diagrams with assistance. Can use simple computer programs and perform a sequence of routine tasks given directions in using technology.

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ABE 4 (High Intermediate Basic Education): Grade level 6.0-8.9. Student is able to read simple descriptions and narratives on familiar subjects or from which new vocabulary can be determined by context and can make minimal inferences. The student is able to write simple narrative descriptions and short essays on familiar topics and can use punctuation consistently. The student can perform all four basic math operations with whole numbers and fractions; can determine correct math operations for solving story problems. Student is able to handle basic life skills tasks such as graphs and charts. The student can read materials on familiar topics such as simple employee handbooks and payroll stubs, can complete simple forms and reconcile a bank statement. Can learn and work with most basic computer software such as using a word processor and can follow simple instructions for using technology.

Adult Secondary Education (ASE or AHSC or HSC): instruction designed for the adult who 1) has basic skills and competence levels in reading, writing, speaking, problem solving and computation; 2) may or may not have a certificate of graduation (or its equivalent) from a school providing secondary education. Includes grades 9.0 through 12.9.

High School completion includes the following:

AHSC 1 (Low Adult Secondary Education): Grade level 9.0-10.9. This student can be considered as a “high school diploma seeking student”. The student can comprehend expository writing and identify spelling, punctuation and grammatical errors. Writing is organized and cohesive, can write and reflect thoughts. The student can perform all four basic math functions with whole numbers, decimals and fractions; can interpret and solve simple algebraic equations, tables, graphs; can use math in business transactions. The student is able or can learn to follow simple multi-step directions and read common legal forms and manuals. Student is proficient in using computers and can use most common computer applications.

AHSC 2 (High Adult Secondary Education): Grade level 11.0-12.0. Student can comprehend, explain and analyze information from a variety of literacy works, can use higher order processes to interpret meaning of written material. Writing is cohesive and clearly expressed. Student can make mathematical estimates of time and space and can apply principles of geometry to measure angles, lines and surfaces. Student is able to read technical information and complex manuals, can comprehend some college level books and apprenticeship manuals; can function in most job situations involving higher order thinking. Student can work productively in groups. Can use and adapt common software and select appropriate technology to new situations.

Completing a Level. Progressing from one educational functioning level to the next higher educational functioning level. Evidence of completing a level is determined as student’s post-

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test score exceeds their Entering Functioning Level (EFL). The National Reporting System (NRS) Functioning Level descriptors are used to determine a student's Functioning Level. If a student's post-test score exceeds the NRS descriptors range of scores for his/her EFL the student may have met their goal. The student may exit the program or they may remain enrolled and move towards advancing additional levels as their future assessments indicate. Advancement or completing a level can only be determined by the student's post-test scores.

Completing a Level and Advancing One or More Levels. Includes completing a level (see Entering Functioning Level for the baseline to gauge advancement). After a level is completed, a continuing student may advance multiple levels. It is necessary to remember that Completing a Level is based on the student's lowest level for reporting purposes. If a student's post-test score (using a different form of the same standardized test used for the pre-test to establish the EFL *and* after an additional 60 - 100 hours of instruction) exceed the NRS descriptors range of scores the student has then completed another level.

Concurrent Program: this occurs when a student is enrolled in more than one program at any point in time. The concurrent program can only manage credits and contact hours earned in that program.

Contact Hour. Hours of non-instruction include: counseling SEOP development hours and assessment time. Instructional contact hours include tutoring/teaching under the supervision of a school district employee or community-based organization employee designed to promote student learning in the program curriculum. Contact hours are reported in the learners entering functioning level regardless of area of instruction.

Hours that CAN be counted:

- * Instructional hours in all ABE.
- * AHSC and ESOL classes designed to advance a student's functioning level.
- * Program-sponsored tutoring or participation in a learning lab.
- * Distance Learning courses-contact hours reported based upon program's grant (distance learning) narrative.

Hours that CANNOT be counted:

- * Homework completed outside of class.
- * Community education classes such as parenting and computer literacy.
- * Time spent in GED examinations.
- * Distance learning including: electronic high school courses or other courses not taken under the direct supervision of an adult education instructor.

English for Speakers of Other Languages (ESOL): non-English speakers who lack competence and language acquisition in any one of the following: reading, writing, speaking, problem solving or listening.

ESOL includes the following:

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ESOL 1 (Beginning ESOL Literacy): student who cannot speak or understand English, has no or minimal reading or writing skills in any language. Student functions minimally or not at all in English and communicates only through gestures or a few isolated words. Student may have no knowledge or use of computers.

ESOL 2 (Low Beginning ESOL): student can understand basic greetings, simple phrases and commands. Student can understand simple questions related to personal information, read numbers, letters and some common sight words, can read and write some familiar words and phrases, can write basic personal information. Student can function with difficulty in social situations and situations related to immediate needs. Student may have limited knowledge and experience with computers.

ESOL 3 (High Beginning ESOL): student can understand common words, simple phrases and sentences containing familiar vocabulary, can read most sight words and many other common words, can read familiar phrases and simple sentences. Student can function in some situations related to immediate needs and in familiar social situations. Student may have limited knowledge and experience with computers.

ESOL 4 (Low Intermediate ESOL): student expresses basic survival needs and with some difficulty participates in some routine social conversations, reads simple material on familiar subjects, can write simple notes and messages on familiar situations, can interpret simple directions, schedules, signs, maps etc, and can complete simple forms. Student may be able to use computer programs and can perform a sequence of routine tasks given directions.

ESOL 5 (High Intermediate ESOL): student can participate in conversations in familiar social situations but may need some assistance in clarifying, can read text on familiar subjects that have a simple and clear underlying structure, can write simple paragraphs, can meet basic survival and social demands and can follow simple oral and written instructions, has some ability to communicate on the telephone on familiar subjects. Student can work with or learn basic computer software.

ESOL 6 (Advanced ESOL): student can understand and communicate in a variety of contexts related to daily life and work, can understand and participate in conversations on a variety of everyday subjects including some unfamiliar vocabulary, can read moderately complex text related to life roles and descriptions and narratives from authentic materials on familiar subjects, can function independently to meet most survival needs and to use English in routine social and work situations. Student can use common

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software, learn new basic applications and select correct basic technology in familiar situations.

Enrollee Status: an adult education student who completes twelve or more contact hours (inclusive of instructional and non-instructional), has a pre-test that establishes an Entering Functioning Level and a Student Education Occupation Plan (SEOP) that includes a defined core goal and a defined funding code for the fiscal year.

Entering Functioning Levels (or Functioning Level) – per NRS guidelines (EFL). Student is assigned an EFL for reporting purposes during a fiscal year. An EFL is determined by scale scores obtained from a standardized test. A student’s scale score in their lowest area of instruction i.e. math, writing, reading determines a student’s EFL for Utah reporting purposes and is the baseline upon which advancement to higher NRS levels is used. (See NRS functioning levels for ESOL, ABE, and AHSC).

Exiting the Program/Exit Date/Separation Date. Date when the student last attends a program through ‘drop out’ and/or completion of goal(s) and has not received instruction for 90 days.

Federal Funding: Adult Education and Family Literacy Act and/or Department of Workforce Services Refugee funds awarded to a school district, governmental entity, or non-profit community-based organization as a result of a competitive application.

Funding Formula: Adult education funds are distributed to school districts according to the state approved funding formula based on student outcomes.

Level Gain. When a student enters the program for the first time in a fiscal year he is assessed and receives a pre-test score. The student’s lowest “academic” level is his entering functioning level for the fiscal year. The student must be post-tested to determine a level gain. Post-testing may occur after 60 hours of instructional contact hours or after a minimum of 40 instructional contact hours if the student is known to be exiting the program.

Managing Program. Program in control of all of the student’s data and outcomes associated with the student.

Participant. A student who has less than twelve total contact hours in a fiscal/program year, does not have a pre-test, or does not have a completed SEOP that includes the establishment of at least one core goal in the managing program.

Proof of Utah Residency. (Note: documentation must be maintained by the program that is/was the original manager of the student’s data. See R277-733-6.) Adult Education Program Student Eligibility.

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- A. An individual is eligible to be a Utah adult education student if:
- (1) the prospective adult education student is at least 16 years of age and the student's class has not graduated; or
 - (2) a prospective adult education student who is otherwise eligible provides one of the following to establish Utah residency:
 - (a) valid state of Utah driver license;
 - (b) valid state of Utah driver privilege card;
 - (c) valid state of Utah identification card; or
 - (d) valid state of Utah resident fishing or hunting license.
 - (3) a prospective adult education student provides one of the following in the prospective student's name with the home mailing address (no post office boxes); documentation shall have been received no more than 12 months prior to the individual's registration request:
 - (a) mail from an in-state or out-of-state business;
 - (b) utility bill or work order;
 - (c) cell phone or telephone bill;
 - (d) employee pay stub;
 - (e) written statement on an employer's letterhead defining a job commitment;
 - (f) current year automobile registration;
 - (g) Utah state government agency form letter;
 - (h) Utah public library card;
 - (i) rent or mortgage payment statement;
 - (j) Utah voter registration card;
 - (k) Utah high school/college transcript or report card;
 - (l) tribal correspondence;
 - (m) approved or denied free or reduced lunch application from the individual's children's school that includes the individual's name on the application;
 - (n) daycare or nursery school record of the individual's children that includes the individual's name on the record;
 - (o) K-12 registration demographic card of children enrolled in a Utah school that includes the individual's name on the card.
 - (p) Consular ID card – issued by the SLC Mexican Consulate.
- B. The following does not establish residency for purposes of adult education programs:
- (1) mail addressed to occupant or resident;
 - (2) letters from friends or relatives;
 - (3) power of attorney documents;
 - (4) personal correspondence addressed to a post office box.

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C. To be eligible for participation in an adult education program, a Utah resident shall be:

- (1) an individual 17 years of age or older whose high school class/cohort has graduated; or
- (2) an individual emancipated under Section 78-3a-1005; or
- (3) an individual emancipated by marriage; or
- (4) an individual who is at least 16 years of age who has not graduated from high school and who is no longer enrolled in a K-12 program of instruction; or
- (5) a student 16 to 19 years of age whose class has not graduated and who is attending adult education classes as an alternative to a traditional public education program.

D. Non-Utah residents from states bordering Utah seeking enrollment into an adult education program in Utah shall be considered resident Utah students consistent with individual agreements between the Utah Adult Education Program and the individual states bordering Utah.

SEOP. Student Education Occupation Plan. A student focused personal plan generated by programs for each student inclusive of student demographics and the establishment of at least one core goal, objective(s), records of prior educational achievements, in addition to other statuses and a signed waiver release.

State Funding: Minimum School Program (MSP) funds awarded to school districts. Percentage awarded is based on annual legislative allocation and program performance outcomes.

Transfer Student: Student who has exited one program and is now enrolled in another program.

UTopia: Utah Online Performance Information for Adult Education. A database containing all students' demographic, SEOP, assessment and outcome information is stored statewide ensuring accurate student information sharing and reporting between programs, the state and/or the federal government.