



**COMPLIANCE SUPPLEMENT FOR AUDITS OF LOCAL
GOVERNMENT ENTITIES**

CASH & INVESTMENTS

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MUNICIPAL TREASURER AS CUSTODIAN OF PUBLIC MONEY

The municipal treasurer shall receive, disburse, and serve as the custodian of all public money; provide for accountability of all local government cash receipts and for deposits and investments of all departments, offices, and boards; pay out, in the order registered, all warrants presented for payment when there are funds in the treasury to pay the warrants; and require periodic departmental reports of money receipts and their disposition on forms that the municipal treasurer prescribes.

MCA 7-6-612

Special District Money: All money received by a special district, including interest and earnings accrued, must be deposited in an account held only for the special district by the office of the county treasurer, city treasurer, or town clerk. See CT16, Special Districts, for listing of special districts for which this provision is or is not applicable.

MCA 7-11-1026(2)

DEPOSIT OF PUBLIC FUNDS IN FINANCIAL INSTITUTIONS

Except as provided in the following 3 MCA sections, it is the duty of all city treasurers and town clerks to deposit all public money in their possession and under their control only in solvent banks, building and loan associations, savings and loan associations, or credit unions. The city/town council may deposit public money not necessary for immediate use in a savings or time deposit with any of these authorized financial institutions or in a repurchase agreement as authorized in 7-6-213.

MCA 7-6-201(1) & (2); MCA 7-6-4601

MCA 7-6-202 - obligations of the United States

MCA 7-6-206 – time & savings deposits or repurchase agreements

MCA 7-6-2701 – registered warrants of entities (county, municipal, hospital district, or school district) located in the same county

INVESTMENT IN OBLIGATIONS/AGENCIES OF THE UNITED STATES

A city or town may invest public money not necessary for immediate use in the following eligible securities:

- a. United States government treasury bills, notes, and bonds, and United States treasury obligations, such as state and local government series (SLGS), separate trading of registered interest and principal of securities (STRIPS), or similar United States treasury obligations;
- b. United States treasury receipts in a form evidencing the holder's ownership of future interest or principal payments on specific United States treasury obligations that, in the absence of payment default by the United States, are held in a special custody account by an independent trust company in a certificate or book-entry form with the Federal Reserve Bank of New York; or

c. obligations of the following agencies of the United States, subject to the limitations of subsection 7-6-202(2)

- i. Federal Home Loan Bank;
- ii. Federal National Mortgage Association;
- iii. Federal Home Mortgage Corporation; and
- iv. Federal Farm Credit Bank.

Investments with these agencies is authorized only if the investment is a general obligation of the agency and have a fixed or zero-coupon rate and must not have prepayments that are based on underlying assets or collateral, including but not limited to residential or commercial mortgages, farm loans, multifamily housing loans, or student loans.

d. United States government security money market fund if:

- i. the fund is sold and managed by a management-type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as may be amended;
- ii. the fund consists only of eligible securities as described above;
- iii. the use of repurchase agreements is limited to agreements that are fully collateralized by the eligible securities, as described in this section, and the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian;
- iv. the fund is listed in a national financial publication under the category of “money market mutual funds”, showing the fund’s average maturity, yield, and asset size; and
- v. the fund’s average maturity does not exceed 397 days.

MCA 7-6-202

Revisions made to MCA 7-6-202 (above), by the 1995 Legislature were effective April 13, 1995. An applicability clause in the legislation specified that these revisions do not apply to and do not require the sale of securities that were legal investments before this effective date. However, upon liquidation of such investments, the proceeds must be invested pursuant to the revised MCA 7-6-202. This applicability clause has been interpreted to mean that mutual fund dividends may not be reinvested after the effective date unless the mutual fund is a United States government security money market fund meeting the criteria specified in the MCA 7-6-202(3), as revised.

Maturity Date Limitation: An investment authorized in this part may not have a maturity date exceeding 5 years, except when the investment is used in an escrow account to refund an outstanding bond issue in advance.

MCA 7-6-202(4)

Note: Please see subsections for exceptions to this limitation related to (1) investment of assets of a local government group self-insurance program and (2), sinking fund investments for balloon payments on qualified construction bonds.

MCA 7-6-202(5) & (6)

SHORT-TERM INVESTMENT POOL (STIP)

Provisions of 7-6-202 may not be construed to prevent the investment of public funds under the state unified investment program established in Title 17, chapter 6, part 2.

MCA 7-6-202(7)

The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the Board of Investments (BOI). Included in the separate investment funds that must be maintained in the unified investment program is a pooled investment fund.

MCA 17-6-201(1) & MCA 17-6-203(3)

The governing body of any city, county, school district, or other local government unit or political subdivision that has funds that are available for investment and are not required by law or by any covenant or agreement with bondholders or others to be segregated and invested in a different manner may direct its treasurer to remit the funds to the state treasurer for investment under the direction of the BOI as part of the short-term pooled investment fund.

MCA 17-6-204

STIP is no longer managed as a 2a7-like portfolio. The investment portfolio consists of securities with maximum maturity of 2 years or less. The BOI utilizes Net Asset Value (NAV) to report its investments at fair value in its own financial statements. Local government monthly statements provide amortized cost values. For year-end reporting, BOI provides a “NAV factor” to be applied to the amortized cost amount, to arrive at the fair value of the local government’s investment.

- a. Share prices are fixed at \$1 per share.
- b. To initiate a buy or sell of STIP shares, one business day’s notice is required.
- c. STIP income is distributed on the first calendar day of each month. Shareholders have the option to automatically reinvest their distribution income in additional shares.

For additional information, see <http://www.investmentmt.com/STIP/Default.mcp>

LONG-TERM INVESTMENT OF LOCAL GOVERNMENT FUNDS

- (1) The governing body of any city, county, school district, or other local government unit or political subdivision may participate in the various investment pools or other investments offered by the board of investments not otherwise prohibited by law.
- (2) A local government may invest with the board of investments under this section if:
 - (a) the source of the original principal for investment with the board is from an identifiable action or event such as a legal settlement, judgment, bequest, insurance settlement, trust fund, or other one-time source of funds;
 - (b) the local government does not anticipate the need to expend 50% or more of the original principal for investment within 5 years from the initial investment with the board;
 - (c) the initial investment is at least \$10 million; and
 - (d) the local government agrees to the board's investment policies, including those addressing liquidity needs, risk and return considerations, asset allocation,

permissible investments, and any other necessary investment considerations or limits.

- (3) The board of investments is not obligated to accept any funds for investment under this section. No local government is obligated to invest with the board under this section.

MCA 17-6-205

DEMAND DEPOSITS

Demand deposits may be placed only in banks.

MCA 7-6-205

TIME & SAVINGS DEPOSITS & REPURCHASE AGREEMENTS

Public money not necessary for immediate use by a city or town that is not invested as authorized in 7-6-202 may be placed in time or savings deposits with a bank, savings and loan association, or credit union in the state or placed in repurchase agreements as authorized in 7-6-213 (see below).

MCA 7-6-206(1)

Bidding Provisions: The local governing body may solicit bids for time or savings deposits from a bank, savings and loan association, or credit union in the state. The local governing body may deposit public money in the institutions unless a local financial institution agrees to pay the same rate of interest bid by a financial institution not located in the county, city, or town. The governing body may solicit bids by notice sent by mail to the investment institutions that have requested that their names be listed for bid notice with the department of administration. Money placed in repurchase agreements is also subject to these provisions.

MCA 7-6-206(1) & (2)

Out-of-State Certificates of Deposit - In addition to other investments authorized above, public money not necessary for immediate use by a city or town may be invested in accordance with the following conditions:

- (a) the money is initially invested through a federally insured financial institution in the state selected by the governing body;
- (b) the selected in-state financial institution arranges for the deposit of the funds of the city or town in one or more federally insured financial institutions, regardless of location;
- (c) the full amount of principal and accrued interest on each deposit is covered by federal deposit insurance; and
- (d) the selected in-state financial institution acts as the custodian for the city or town with respect to the deposit issued for its account.

MCA 7-6-206(3))

Repurchase Agreements: A financial institution may contract with a local governing body to establish one or more repurchase agreements, including daily repurchase agreements.

MCA 7-6-213

A repurchase agreement is a contract that specifies the minimum and maximum of public money that the local governing body will invest under the contract in securities that the financial institution will sell to the local governing body and that the financial institution will repurchase on mutually agreeable terms. A repurchase agreement is not a demand account.

The local governing body may maintain in the same financial institution contracting for the repurchase agreement a demand account into which each business day shall be deposited a sum equal to the day's disbursements, and that deposit will be the proceeds of the redemption by the financial institution of securities previously purchased by the local governing body under the provisions of the repurchase agreement, so that the balance of the demand account at the close of each day's business will be zero.

Bidding Provisions: The local governing body shall call for bids as provided in 7-6-206 (see above) to contract for a repurchase agreement from all financial institutions chartered to do business in the state of Montana which are authorized to accept demand deposits and to buy and sell securities. The call for bids shall specify the minimum acceptable rate of interest, effective date of the repurchase agreement and the period of duration and range of funds to be invested.

There is no express or implied limitation on a county treasurer's ability to use the services of an investment or brokerage firm to purchase approved securities; however, an investment company may not be used in making demand or time deposits because that form of transaction is restricted to banks, savings and loan associations, and credit unions.

AGO #25, Vol. 42.

Although, this AGO is specific to a county treasurer the same holding would also apply to a municipality.

INTEREST RATES ON DEPOSITS OF PUBLIC MONEY

Public money deposited pursuant to 7-6-4601 shall bear interest at a rate no less than the rate of interest paid on money from private sources on the same terms. Refusal of any bank, building and loan association, savings and loan association, or credit union to pay that same interest rate shall constitute a waiver of that institution's right to participate in the deposit of public funds.

MCA 7-6-203 and MCA 7-6-4602

DEPOSIT INSURANCE COVERAGE

Federal Deposit Insurance (FDIC): FDIC insurance covers all deposit accounts placed in banks and savings associations, including checking and savings accounts, money market deposit accounts and certificates of deposit. For detailed information on deposit insurance for accounts held by government depositors, see: <http://www.fdic.gov/deposit/deposits/FactSheet.html>

Official Custodian: A public unit (including a political subdivision) is insured through its official custodian. If the same individual is an official custodian for more than one public unit, he

or she is separately insured for the deposits belonging to each public unit. Deposit insurance coverage cannot be increased by dividing funds among several putative official custodians who lack plenary authority over such funds. Likewise, coverage cannot be increased by dividing funds among several accounts controlled by the same official custodian for the same public unit.

All **time and savings deposits** (including NOW accounts and money market deposit accounts but not interest-bearing demand deposit accounts, which were permitted after July 21, 2011) owned by a public unit and held by the public unit's official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to \$250,000.

Separately, all **demand deposits** (including both interest-bearing and noninterest-bearing deposits that are payable on demand and for which the depository institution does not reserve the right to require advance notice of an intended withdrawal) owned by a public unit and held by the public unit's official custodian in an insured depository institution within the State in which the public unit is located are added together and insured up to \$250,000.

The standard insurance amount is \$250,000 per depositor.
Dodd-Frank Wall Street Reform and Consumer Protection Act

For more information about FDIC coverage, go to <https://www.fdic.gov/index.html>

National Credit Union Administration (NCUA): NCUA insurance covers members' accounts (savings accounts, share draft accounts, money market accounts and share certificates) in all federally-chartered credit unions and in most state-chartered credit unions. All accounts held by a member will be added together and insured up to the basic insurance amount.

The basic insurance amount is \$250,000 per individual account holder, per federally insured credit union. (Dodd-Frank Wall Street Reform and Consumer Protection Act)

For more information about NCUA coverage, or an electronic share insurance calculator, go to <http://www.ncua.gov/DataApps/Pages/SI-NCUA.aspx>

PLEGGED SECURITIES

The treasurer or town clerk shall take from the bank, building and loan association, savings and loan association, or credit union security that the local governing body may prescribe, approve, and consider fully sufficient and necessary to ensure the safety and prompt payment of all deposits, together with the interest on any time or savings deposits.

MCA 7-6-201(3)

All deposits must be subject to withdrawal by the treasurer or town clerk in amounts that may be necessary. A deposit of funds may not be made or permitted to remain in any financial institution until the security for the deposit has been first approved by the local governing body and delivered to the treasurer or town clerk.

MCA 7-6-201(4)

Level of Security: The local governing body may require security only for that portion of the deposits that is not guaranteed or insured according to law and, as to the unguaranteed or uninsured portion, to the extent of:

- (a) 50% of the deposits if the institution in which the deposit is made has a net worth to total assets ratio of 6% or more; or
- (b) 100% if the institution in which the deposit is made has a net worth to total assets ratio of less than 6%.

MCA 7-6-207(1)

Allowable Securities: The security must consist of those enumerated in 17-6-103 or cashier's checks issued to the depository institution by any federal reserve bank.

MCA 7-6-207(1)

See MCA 17-6-103 for listing of the types of securities that may be pledged or the guarantees that may be issued to secure deposits of public funds.

When negotiable securities are furnished, the securities may be placed in trust. The trustee's receipt may be accepted in lieu of the actual securities when the receipt is in favor of the treasurer or town clerk and the treasurer's or clerk's successors. All warrants or other negotiable securities must be properly assigned or endorsed in blank.

MCA 7-6-207(2)

Acceptance & Approval of Securities: The appropriate governing body shall, upon the acceptance and approval of any of the bonds or securities, make a complete minute entry of the acceptance and approval upon the record of its proceedings, and the bonds and securities must be reapproved at least quarterly.

MCA 7-6-207(2)

Substitution of deposit security: Any bank, building and loan association, savings and loan association, or credit union pledging securities as provided in 7-6-207, at any time it deems advisable or desirable, may substitute like securities for all or any part of the securities pledged. The collateral so substituted shall be approved by the governing body of the county, city, or town at its next official meeting.

MCA 7-6-208(1)

Such securities so substituted shall at the time of substitution be at least equal in principal amount to the securities for which substitution is made. In the event that the securities so substituted are held in trust, the trustee shall, on the same day the substitution is made, forward a receipt by registered or certified mail to the county, city, or town and to the financial institution. The receipt shall specifically describe and identify both the securities so substituted and those released and returned to the financial institution.

INVESTMENT IN REGISTERED WARRANTS

When the city or town has money for which there is no immediate demand (excluding money realized from the proceeds of bonds), the city or town may invest in city or town warrants. The city/town council may direct the treasurer or clerk to purchase legally issued general obligation warrants that were issued against funds in which there are not sufficient funds to pay such warrants at the time of issuance. The city/town council shall designate the fund or funds to be invested and designate the warrants to be purchased. The warrants will be registered and bear interest.

MCA 7-6-4603

INVESTMENT OF BOND PROCEEDS

Whenever the city or town has under its control any money realized from the sale of bonds, for which there is no immediate demand and which in the judgment of the city or town council it would be advantageous to invest in any time or savings deposits, United States certificates of indebtedness, United States treasury notes, or United States treasury bonds having a maturity date of 1 year or less, the city or town council is authorized in their discretion to direct the city treasurer or town clerk to make such investments.

MCA 7-7-4102

PETTY CASH FUND

A municipal governing body may set aside a sum out of the general fund, which must be known as a petty cash fund. The petty cash fund must be used for the purpose of paying incidental expenses, such as freight charges, express charges, postage, and other similar expenses that must be immediately paid in cash.

MCA 7-6-615(1)

CASH TRANSFERRED BETWEEN FUNDS

Money may not be transferred from one fund to another except by resolution of a municipal governing body unless the transfer is:

1. previously authorized by a budget resolution;
2. to close inactive funds, as provided by MCA 7-6-614;
3. made in the usual course of county business for:
 - a. school transfers;
 - b. tax increment finance districts;
 - c. specialized tax situations;
 - d. the purpose of distributing refunds, protested taxes, or interest charges for interest in lieu of registered warrants;
 - e. bond sinking fund transfers;
 - f. residual equity transfers;

- g. transfers of investments;
 - h. corrections of errors; or
4. otherwise authorized by statute.
- MCA 7-6-613

INVESTMENT OF FIRE DEPARTMENT RELIEF ASSOCIATION MONEYS

Applicable when the City/Town Treasurer Has Been Elected Ex Officio Treasurer of the Association per MCA 19-18-103

The board of trustees of a fire department relief association may invest the surplus money in the fund or any part of the surplus money in:

- (a) time or saving deposits in a solvent bank, building and loan association, savings and loan association, or credit union operating in the county where the city or town is located;
- (b) bonds or other securities of the United States government; or
- (c) general obligation bonds or warrants of any state, county, or city.

MCA 19-18-402

Whenever the average yield on investments of public retirement funds under the board of investments exceeds by 1% in any fiscal year the average yield on investments of the fund made pursuant to 19-18-402 (above), the surplus money in the fund must be remitted to the state treasurer for investment under the direction of the board of investments as is provided in 17-6-204 (STIP). The board of investments shall advise the association of the current yield on investments of public retirement funds.

MCA 19-18-403(1)

As used here, "surplus money" means the excess over the greater of the following 1 1/2 times the monthly benefit paid in the preceding month or \$5,000.

MCA 19-18-403(2)