

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER



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STATE TREASURER OF NORTH CAROLINA
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STATE AND LOCAL GOVERNMENT FINANCE DIVISION

Myth Busters

Treasurer's Conference

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Introduction

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Agenda (Myths to be Busted)

- Myth: Units that don't submit an audit will have to pay a penalty.
- Myth: All finance officers must have a \$50,000 bond.
- Myth: LGC approval isn't required for leases.
- Myth: Data accuracy on the DIW and AFIR isn't important.
- Myth: "Pre-Audit" is the work done prior to an audit.
- Myth: An unmodified opinion means that the unit is in good fiscal health and has no significant fiscal operational issues.
- Myth: Local governments shouldn't contact LGC staff unless there is a major issue or concern.



The Myth of the Late Audit “Penalty”



Myth: Units that don't submit an audit on time will have to pay a penalty.

Facts:

- ✓ [G.S. 159-34](#) was recently updated (see [Session Law 2023-59](#)).
- ✓ Counties and municipalities that don't submit an audit by nine months after fiscal year end must receive a notice of noncompliance from the LGC.
- ✓ Counties and municipalities that don't submit an audit by twelve months after fiscal year end may have a portion of their sales tax withheld.
- ✓ The amount that may be withheld is 150% of the amount of the audit contract or 150% of the of the actual fee for the most recently filed audit report (if there is no audit contract).



Myth: Units that don't submit an audit on time will have to pay a penalty.

Facts:

- ✓ Units that receive a notice of noncompliance may appeal the action.
- ✓ Units that have submitted the prior four fiscal year audits (FY2019, FY2020, FY2021, FY2022) within 12 months of fiscal year end qualify for a successful appeal under the "[Guideline for Successful Appeal](#)" adopted by the LGC.
- ✓ All other units may appeal based on "other good cause with evidence to support the basis for the appeal". The LGC will consider these appeals.



Myth: Units that don't submit an audit on time will have to pay a penalty.

Facts:

- ✓ A county or municipality that
doesn't submit an audit by July 1
- or -
doesn't submit an appeal

will be “**deemed to have given consent to the withholding of a portion of its sales tax distributions**”.



Myth: Units that don't submit an audit on time will have to pay a penalty.

Facts:

✓ Withheld funds must be released:

- (1) After two years
- (2) After the audit report was filed and accepted
- (3) If an appeal (after the direction to withhold funds) was successful



Myth: Units that don't submit an audit on time will have to pay a penalty.

Facts:

- ✓ Our [website](#) provides details on the notices of noncompliance, requirements of the law, information on appeals, a portal to submit an appeal, and more.
- ✓ Questions? Please contact us asap: LGCNotifications@nctreasurer.com.



Myth: Units that don't submit an audit on time will have to pay a penalty.

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The Myth of the \$50,000 Finance Officer Bond



Myth: All finance officers are required to have a \$50,000 bond.

Facts:

- ✓ G.S. 159-29 was recently updated (see Session Law 2022-53).
- ✓ The amount of the bond fixed by the governing board may not be less than the greater of the following:
 - (1) Fifty thousand dollars (\$50,000).
 - (2) An amount equal to ten percent (10%) of the unit's annually budgeted funds, up to one million dollars (\$1,000,000).
- ✓ For details, see:
 - LGC Memo 2023-06
 - UNC School of Government Local Finance Bulletin #62



Example 1:

General Fund	\$	174,350
Multiyear Capital Projects Funds		n/a
Enterprise Fund		<u>105,360</u>
Total – Annually Budgeted Funds	\$	<u><u>279,710</u></u>
10% of Annually Budgeted Funds		\$27,971
 <u>G.S. 159-29(a)(1) applies</u>		
Finance Officer – minimum fidelity bond required	\$	50,000



Example 2:

General Fund	\$ 754,212
Debt Service Fund	24,362
Multiyear Capital Projects Funds	n/a
Enterprise Funds	424,430
Multiyear Enterprise Capital Projects Fund	<u>n/a</u>
Total – Annually Budgeted Funds	<u>\$ 1,203,004</u>
10% of Annually Budgeted Funds	\$120,300
<u>G.S. 159-29(a)(2) applies</u>	
Finance Officer – minimum fidelity bond required	\$ 120,300



Example 3:

General Fund	\$ 282,224,212
Emergency Telephone System Special Revenue Fund	625,300
Arena Center Special Revenue Fund	423,325
Multiyear Capital Projects Funds	n/a
Enterprise Fund	146,350
Multiyear Enterprise Capital Projects Fund	<u>n/a</u>
Total – Annually Budgeted Funds	<u>\$ 283,419,187</u>
10% of Annually Budgeted Funds	\$28,341,912
<u>G.S. 159-29(a)(2) applies</u>	
Finance Officer – minimum fidelity bond required	\$ 1,000,000



Myth: All finance officers are required to have a \$50,000 bond.

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The Myth of LGC Approval of Leases



Myth: Leases do not have to be approved by the LGC.

Facts:

- ✓ G.S. 159-148 requires LGC approval of any “contract, agreement, memorandum of understanding...made or entered into by a unit of local government ...relating to the lease, acquisition, or construction of capital assets...”



Myth: Leases do not have to be approved by the LGC.

Facts:

- ✓ Read statutes for details, but generally, for **most units**, LGC approval is required for contracts that:
 - ✓ Extend for **five** or more years, including extensions
 - ✓ Are for **\$500,000** or more
- ✓ Contracts for voting machines are excluded
- ✓ Contracts for vehicles are excluded



Myth: Leases do not have to be approved by the LGC.

Facts:

- ✓ Read statutes for details, but generally, for units on the **Unit Assistance List**, LGC approval is required for contracts that:
 - ✓ Extend for **three** or more years, including extensions
 - ✓ Are for **\$50,000** or more
- ✓ Contracts for voting machines and excluded
- ✓ Contracts for vehicle purchases **less than \$50,000** are excluded (vehicle contracts for \$50,000 or more require LGC approval)



Myth: Leases do not have to be approved by the LGC.

Facts:

- ✓ Not sure if your contract/lease/debt requires LGC approval?
 - ✓ Review the UNC School of Government flowchart available on our [website](#).
 - ✓ Submit an inquiry through our [Debt Inquiry Portal](#).
 - ✓ Refer to General Statutes [Chapter 159 Article 8](#): Financing Agreements and Other Financing Arrangements; Arrangements for Nongovernmental Control of Public Enterprises.



Myth: Leases do not have to be approved by the LGC.

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The Myth of the Value of Data



Myth: Data accuracy on the DIW and AFIR isn't important.

Facts:

- ✓ LGC staff uses the data collected in the Data Input Workbook (DIW) and Annual Finance Information Report (AFIR) for reporting and analysis purposes.
- ✓ Data is used to create reports that are provided to the General Assembly, other state agencies, and others.
- ✓ Data is used to identify Financial Performance Indicators of Concern.
- ✓ Data is used to assess units for inclusion on the Unit Assistance List.
- ✓ Unreported or incorrect data becomes noticeable and/or skews output of reports. This results in further communication with the auditor or staff of the reporting unit and revisions of earlier submitted reports.
- ✓ The Finance Officer or designee should be aware of, and sign off on, all data submitted.



Myth: Data accuracy on the DIW and AFIR isn't important.

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The Myth of “Pre-Audit”



Myth: “Pre-Audit” refers to the work done prior to an audit.

Facts:

- ✓ G.S. 159-28 addresses the pre-audit requirement; refer to this statute for details.
- ✓ G.S. 159-28(a) [excerpt]: “No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget ordinance unless the budget ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year.”



Myth: “Pre-Audit” refers to the work done prior to an audit.

Facts:

- ✓ G.S. 159-28(a1) [excerpt]: “Preaudit Requirement. – If an obligation is reduced to a written contract or written agreement requiring the payment of money, or is evidenced by a written purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with subsection (a) of this section.”
- ✓ G.S. 159-28 (a2): “Failure to Preaudit. – An obligation incurred in violation of subsection (a) or (a1) of this section is invalid and may not be enforced.”



Myth: “Pre-Audit” refers to the work done prior to an audit.

Facts:

- ✓ G.S. 159-28(a3) [excerpt]: “An automated financial computer system may be used to meet the requirements of subsection (a1) of this section if an annual certification is filed with the Secretary of the Commission.”
- ✓ See this [webpage](#) for more information and to submit a certification.



Myth: “Pre-Audit” refers to the work done prior to an audit.

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The Myth of an Unmodified Opinion



Myth: An unmodified (“clean”) opinion on a unit’s financial statements means that the unit is in good fiscal health and has no significant fiscal operational issues.

Facts:

- ✓ The AICPA defines an unmodified opinion as “the opinion expressed by the auditor when the auditor concludes that the financial statements are presented fairly, in all material respects, in accordance with the applicable financial reporting framework.”



Myth: An unmodified (“clean”) opinion on a unit’s financial statements means that the unit is in good fiscal health and has no significant fiscal operational issues (continued).

Facts:

- ✓ In other words, an unmodified opinion means that the reader should be able to determine the financial condition of the entity from the financial statements. An entity can be in horrible financial condition but if the statements correctly reflect that, the opinion will be unmodified.



Myth: An unmodified (“clean”) opinion on a unit’s financial statements means that the unit is in good fiscal health and has no significant fiscal operational issues (continued).

Facts:

- ✓ An entity can have material internal control weaknesses and significant deficiencies and still get an unmodified opinion. The clean opinion doesn’t mean they shouldn’t address the deficiencies.



Myth: An unmodified (“clean”) opinion on a unit’s financial statements means that the unit is in good fiscal health and has no significant fiscal operational issues.

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The Myth of Contacting LGC Staff



Myth: Local governments shouldn't contact LGC staff unless there is a major issue or concern.

Facts:

- ✓ We are here to help and happy to do so.

- ✓ To contact LGC staff:
 - ✓ Call: 919-814-4300
 - ✓ Email: SLGFD@nctreasurer.com
 - ✓ Debt Inquiries: [Debt Inquiry Form](#)

- ✓ To stay up to date on LGC staff announcements and reminders:
 - ✓ Read and sign up to receive alerts for new posts on the [LGC Staff Blog](#)



Myth: Local governments shouldn't contact LGC staff unless there is a major issue or concern.

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Previously Busted Myths



Myth: The LGC approves audits.

Facts:

✓ N.C.G.S. 159-34 requires that

Audits are filed with the Secretary of the LGC.

Contracts are approved by the Secretary of the LGC (with regard to the contract's form, terms, conditions, and compliance with the rules of the Commission).

Invoices are approved by the Secretary of the LGC (after determining that the audit and audit report substantially conform to the requirements of statutes).



Myth: An auditor must be on an LGC-approved list in order to be selected by a local government to perform an audit.

Facts:

- ✓ LGC staff maintains a list of firms offering audit and non-audit services to local governments in North Carolina.
- ✓ List is available on our [“Audit Resources”](#) webpage.
- ✓ Information on the list is submitted by firms.
- ✓ Neither the LGC nor its staff recommend, endorse, or approve firms.
- ✓ If a firm would like to be included, email SLGFD@nctreasurer.com.



Myth: There is a December 1 grace period for the submission of audit reports.

Facts:

- ✓ Audit reports are due four months after FYE (other than housing authorities; for most units, the due date is October 31).
- ✓ The LGC does not grant extensions of due dates.
- ✓ Amended contracts are not extension requests – they are modifications to the original contracts in which the date to be submitted was documented as four months after FYE.
- ✓ The December 1 date applies to the need for an amended contract – if an audit will be submitted late (after October 31) but before December 1, an amended contract is not required by the LGC.



Myth: The cap on interim invoices is determined based on the contract amount.

Facts:

- ✓ The cap is calculated as 75% of the billings for the last annual audit submitted to the Secretary (see 20 NCAC 03 .0505)
- ✓ Invoices not submitted to the LGC aren't (can't be) included in the cap calculation
- ✓ The cap is NOT calculated as
 - 75% of the current year contract
 - 75% of the prior year contract



QUESTIONS?

Feel free to contact us with any questions or concerns:

SLGFD@nctreasurer.com