

**NOTICE OF PROPOSED RULEMAKING FILING  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT**

*For internal agency use only.*

SECRETARY OF STATE AUDITS DIVISION		162 Audits Division	
Agency and Division Name		Administrative Rules Chapter Number	
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**FILING CAPTION**

Revisions to align with 2023 legislative amendments to Municipal Audit Law.

LAST DATE AND TIME TO OFFER COMMENT TO AGENCY: 05/22/2024 5:00 PM PDT

The agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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**RULEMAKING ACTION**

*List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.*

**AMEND:** 162-010-0010, 162-010-0020, 162-010-0030, 162-010-0050, 162-010-0320, 162-010-0330

**MINOR STATUTORY CORRECTION:** 162-010-0120

**RULE SUMMARY:**

*Include a summary for each rule included in this filing.*

162-010-0010: Amended to define "expenditures" as required by 2023 legislation.

162-010-0020: Amended to align with reporting standards.

162-010-0030: Strikes references that were repealed by HB 2110 A.

162-010-0050: Amended to clarify allowable basis of accounting.

162-010-0120: Minor statutory correction to delete duplicate period at the end of the paragraph.

162-010-0320 Amended to clarify county cost audits.

162-010-0330: Amended to align with HB 2110 A.

## STATEMENT OF NEED AND FISCAL IMPACT

### Need for Rule(s):

This rule is needed to align with recent Legislative amendments to Municipal Audit Law (ORS 297.405 to 297.990) which required providing the definition of “expenditure” and clarifying county cost audits in administrative rule.

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### Documents Relied Upon, and where they are available:

HB 2110 A Enrolled (2023) and ORS 297.405 to 297.990 are available online at [oregonlegislature.gov](http://oregonlegislature.gov) or from Secretary of State Audits Division.

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### Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in this state:

Adoption of these rules will not impact racial equity in this state.

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### Fiscal and Economic Impact:

The proposed revisions are required due to legislative amendments enacted during the 2023 session and are not expected to cause fiscal or economic impact to state, county or local municipal governments.

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### Statement of Cost of Compliance:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Approximately 1800 local governments are subject to annual financial reporting and audit requirements under ORS 297.405 to 297.990. The effect of including definition and clarification in rule will have minimal impact on these entities.

(2a) There are about 250 municipal auditors that are licensed by the Oregon Board of Accountancy to perform this work. The effect of including definition and clarification in rule will have minimal impact on licensees.

(2b) There is no change to required financial reporting from prior versions of this rule. These changes are intended to provide clarification to municipal corporations and auditors as a result of legislative amendments enacted during the 2023 session. The definition of expenditure does not change significantly to warrant any expected impact or noticeable change.

(2c) Licensed municipal auditors set rates which may vary by firm and region. While these changes are minimal and not expected to cause impact, we are unable to estimate the impact of these costs.

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### Describe how small businesses were involved in the development of these rule(s)?

Small business employees and owners that are either licensed municipal auditors, employees of audit firms, or representatives from various local governments, including key stakeholders such as the Oregon Board of Accountancy have been notified of the rule revision and provided opportunity to give input.

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### Was an Administrative Rule Advisory Committee consulted? Yes or No?

If not, why not?

No, because changes are minimal and largely clarification or moving definition from statute to rule. Much of the changes were discussed with constituents in the prior year leading up to statute change and previous rules revisions (OAR 162-040). Further, these rules were developed in cooperation with the Oregon Board of Accountancy and in consultation with the Oregon Society of Certified Public Accountants and other members of the municipal and audit community. Adopting these revisions is necessary to align administrative rule with statute in order for municipal corporations and licensed municipal auditors to remain in compliance with the law.

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## RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

AMEND: 162-010-0010

RULE SUMMARY: Amended to define “expenditures” as required by 2023 legislation.

### CHANGES TO RULE:

#### Definitions

The following definitions describe terms within the context of their application to Municipal Audit Law.

- (1) “Independent Auditor” means the Accountants whose names are included in the roster prepared and maintained by the Oregon Board of Accountancy and defined in ORS 297.405.
- (2) “Municipal Audit Law” means the laws enacted by the Oregon Legislature and prescribed in Oregon Revised Statutes (ORS) Chapter 297.405 to 297.740 and 297.990.
- (3) “Municipal Corporation” means any public entity subject to audit defined in ORS 297.405.
- (4) “Cash basis or modified cash basis” means a basis of accounting that the entity uses to record cash receipts and disbursements and modifications of the cash basis having substantial support, such as recording depreciation on capital assets. The cash basis of accounting is the only special purpose framework allowable under Oregon law.
- (5) “Fiscal year” means for a municipal corporation with the power to impose ad valorem property taxes, the fiscal year commencing on July 1 and ending on June 30, and for all other municipal corporations, an accounting period of 12 months ending on the last day of any month.
- (6) “Documentation” means the written record of procedures performed, relevant evidence obtained, and conclusions the independent auditor reached.
- (7) “Governing body” means the city council, board of commissioners, board of directors, county court or other managing board of a municipal corporation including a board managing a municipality owned public utility or a dock commission
- (8) “Management” means the person(s) with executive responsibility for the conduct of the municipal corporation’s operation and may include some or all of those charged with governance; for example the elected or appointed public officials.
- (9) “Legally adopted budget” means the statutory budget required by Oregon law prescribed on ORS Chapter 294.305 to 294.565 (Local Budget Law) and intergovernmental entities formed under ORS Chapter 190.
- (10) “Expenditures” for the purpose of ORS 297.432 and 297.485 and throughout OAR 162-010 and 162-040 includes the amount reported as expenses on the government-wide Statement of Activities; or, in the case of a municipal corporation that reports only proprietary funds, expenditures include total operating and non-operating expenses reported on the proprietary fund operating statement.

Statutory/Other Authority: ORS 297

Statutes/Other Implemented: ORS 297.465

#### History:

AUDIT 1-2014, f. & cert. ef. 2-13-14

AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07

AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01

DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95

DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91

DOA 3-1986, f. & cert. ef. 5-29-86, Renumbered from 165-030-0665

SD 104-1976, f. 2-20-76, cert. ef. 7-1-76

AMEND: 162-010-0020

RULE SUMMARY: Amended to align with reporting standards.

CHANGES TO RULE:

General Requirements

(1) All municipal corporations, as defined in ORS 297.405, are required to have their accounts and fiscal affairs audited annually in accordance with generally accepted auditing standards as promulgated by the American Institute of Certified Public Accountants (AICPA), unless they qualify under 297.435 ~~to be reviewed~~ for agreed-upon procedures reporting in accordance with Statements on Standards for Attestation Engagements Accounting and Review Services (SSAERS), or file financial reports in lieu of having an audit. ~~The accounts to be audited and examined may include financial statements, or they may consist solely of books, records, and other financial data~~

(2) The independent auditor who contracts to conduct an audit of a municipal corporation must personally conduct the audit to an extent satisfactory to the Secretary of State, prepare an Independent Auditor's Report and express an opinion on the accounts in accordance with these rules. The expression of opinion must be signed by the independent auditor. The Independent Auditor's Report and expression of opinion are to be issued to the municipal corporation within six months after the close of the calendar or fiscal year unless an extension of time has been granted by the Secretary of State.

(3) Management (of the municipal corporation) has the responsibility for adopting sound accounting policies, for maintaining an adequate and effective system of accounts, for the safeguarding of assets, and for devising a system of internal control that will, among other things, help assure the production of proper financial statements. The transactions which should be reflected in the accounts and in the financial statements are matters within the direct knowledge and control of management. The independent auditor's knowledge of such transactions is limited to that acquired through the audit. Accordingly, the fairness of the representations made through financial statements is an implicit and integral part of management's responsibility. The independent auditor may make suggestions as to the form or content of financial statements or he/she may draft them in whole or in part, based on management's accounts and records. However, responsibility for the statements examined is confined to the expression of opinion on them. The financial statements remain the representations of management.

(4) Since the functions and forms of government, as well as the accounting, internal control, and management information systems, will vary greatly among municipal corporations, the independent auditor must be familiar with legal provisions applicable to municipal corporations and the accounting principles promulgated by GASB and other accounting principles considered to be generally acceptable for governmental organizations. The independent auditor shall review the information systems of accounting and internal control, develop audit programs to adequately test those systems, and form an opinion with respect to the financial statements of the municipal corporation.

(5) Officials of the municipal corporation should make an accounting of all resources for which they are responsible. Preparation of the financial statements and notes thereto and the supplementary schedules considered necessary for full disclosure of financial position and results of operations as set forth in OAR 162-010-0050 through 162-010-0140 will be considered an appropriate accounting.

(6) The independent auditor is expected to determine if the accounts and records are maintained in a manner that will permit the preparation of financial statements that will fairly present the financial position and results of operations of the municipal corporation in accordance with legal provisions and in accordance with generally accepted accounting principles. The accounting principles contemplated are those contained in the pronouncements of authoritative bodies including, but not necessarily limited to, the Governmental Accounting Standards Board (GASB), the AICPA and the Financial Accounting Standards Board (FASB). If the municipal corporation fails to prepare and present the financial statements specified in OAR 162-010-0050 through 162-010-0140, the independent auditor must consider modifying the engagement terms and making a reasonable attempt to draft them for the municipal corporation from the accounts and records made available ~~for auditor~~. encourage the municipality to engage with another accountant to perform that work. If the financial statements cannot be drafted with reasonable effort, appropriate comments must be included in the audit report, together with recommendations for improvements necessary to permit their preparation in the future. Wherever there is a conflict between legal provisions and professional standards setting bodies, legal provisions are to take precedence. The independent auditor shall make an appropriate disclosure of such conflicts and shall be aware that a qualification of the opinion may be necessary.

(7) In addition to auditing the accounts and financial statements of a municipal corporation, the independent auditor is required to review the municipal corporation's fiscal affairs. The review shall include, but not necessarily be limited to, determining if financial operations have been carried out in accordance with appropriate legal provisions including federal and state laws, charter

provisions, court orders, ordinances, resolutions, and rules and regulations issued by other governmental agencies. It is the independent auditor's responsibility to disclose in the audit report material instances of noncompliance with such legal provisions.

(8) The scope of the audit of a municipal corporation shall include programs wholly or partially funded by other federal, state, or local governmental agencies. In determining the audit procedures to be applied to such programs, the independent auditor shall consider any specific audit procedures which may have been developed for those programs by appropriate governmental agencies. The independent auditor shall also determine if financial reporting requirements applicable to such programs have been complied with.

(9) The audit report of a municipal corporation shall contain financial statements with appropriate notes, the Independent Auditor's Report containing his or her expression of opinion on the financial statements, or an assertion that an opinion cannot be expressed, and the auditor's comments relating to the review of fiscal affairs and compliance with legal requirements.

(a) The independent auditor must prepare the independent auditor's opinion in accordance with the Statements on Auditing Standards issued by the AICPA.

(b) The independent auditor's report should include either an opinion on whether the accompanying financial information is fairly presented in all material respects in relation to the basic financial statements taken as a whole or a disclaimer of opinion depending on whether the information has been subjected to the auditing procedures applied in the audit of the basic financial statements.

(c) In a GAAP presentation the independent auditor shall express an "in relation to" opinion on budgetary comparison schedules presented as required supplementary information.

(d) The independent auditor shall express an "in relation to" opinion on the combining and individual fund statements and schedules presented as supplementary information required by OAR 162-010-0050 through 162-010-140.

(e) The auditor's comments relating to the review of fiscal affairs, including compliance with legal requirements shall be in accordance with the provisions of OAR 162-010-200 through 162-010-0320.

(10) Audit reports are required to contain, immediately inside the front cover, the names and ~~mailing~~ addresses of officers of the municipal corporation and members of its governing body. In addition, audit reports of special districts, as defined by law, shall contain the name of the district's registered agent and its registered address. If a special district has not designated a registered agent or registered address, then the audit report shall so indicate.

(11) It is the responsibility of the municipal corporation to file a copy of its audit report with the Secretary of State. The reports are subject to review for compliance with these rules, and the Secretary of State may call for submission by the independent auditor of the work papers and audit programs covering an engagement. The work papers and audit programs must contain satisfactory documented evidence of compliance with these rules.

~~(12) Within 30 days after delivering the audit report, as required by law, the municipal corporation or its designee independent auditor shall submit a summary of the revenues, and expenditures of the municipal corporation, for the period covered by the audit, or other information as requested. The summary shall be made in the manner and on forms as prescribed by the Secretary of State, and within 30 days after delivering the audit report, as required by law. One copy of the summary shall be delivered to the municipal corporation. Instructions are as follows:~~

~~(a) General: The summary shall include the revenues and expenditures or receipts and disbursements presented in the government-wide statement of activities.~~

~~(b) The amounts shall also include fiduciary fund additions and deductions.~~

~~(c) Revenues and expenditures of component units and turnovers to other governments should be identified in the summary as reductions in arriving at the net totals. Those amounts are included in the separately issued financial statements of the other governments.~~

Statutory/Other Authority: ORS 297  
Statutes/Other Implemented: ORS 297.465  
History:  
AUDIT 2-2015, f. & cert. ef. 8-19-15

AUDIT 1-2014, f. & cert. ef. 2-13-14  
AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10  
AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07  
AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01  
DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95  
DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91  
DOA 3-1986, f. & cert. ef. 5-29-86, Renumbered from 165-030-0015  
SD 104-1976, f. 2-20-76, cert. ef. 7-1-76

AMEND: 162-010-0030

RULE SUMMARY: Strikes references that were repealed by HB 2110 A.

CHANGES TO RULE:

#### Contracts

Municipal Audit Law requires audits be performed pursuant to a contract between the independent accountant and the governing body, or managing or executive officer, of the municipal corporation. Laws governing contracts are prescribed in the Oregon Public Contracting Code, ORS Chapters 279A, 279B, and 279C. ~~If the municipal corporation does not prepare the financial statements set forth in OAR 162-010-0050 through 162-010-0140, the contract must provide for the independent auditor to make a reasonable attempt to draft them for and on behalf of the municipal corporation.~~

Statutory/Other Authority: ORS 297.465  
Statutes/Other Implemented: ORS 297.465

#### History:

AUDIT 2-2015, f. & cert. ef. 8-19-15  
AUDIT 1-2014, f. & cert. ef. 2-13-14  
AUDIT 1-2011, f. & cert. ef. 1-27-11  
AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10  
AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07  
AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01  
DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91  
DOA 3-1986, f. & cert. ef. 5-29-86, Renumbered from 165-030-0020  
SD 104-1976, f. 2-20-76, cert. ef. 7-1-76

AMEND: 162-010-0050

RULE SUMMARY: Amended to clarify allowable basis of accounting.

CHANGES TO RULE:

#### Financial Statements

(1) The GASB is recognized as the standard-setting authority of GAAP for state and local governments. As such, fair presentation of financial position and results of operations in conformity with GAAP for Oregon municipal corporations are those financial statements, notes thereto, and supporting information consistent with GASB Statements and Interpretations and the hierarchy of GAAP applicable to state and local governments established by the AICPA and adopted by GASB.

(2) Since the focus of accounting in a governmental unit is the individual fund, the financial statements to be presented in the municipal corporation's annual report must also include nonmajor fund combining statements and individual fund statements/schedules.

(3) Compliance with municipal audit law includes financial statements prepared on the cash basis or modified cash basis of accounting.

(4) If information necessary to prepare the financial statements, or any of them individually, is not readily available or is not maintained by the municipal corporation appropriate disclosure must be made in the auditor's report.

Statutory/Other Authority: ORS 297  
Statutes/Other Implemented: ORS 297.465

History:

AUDIT 2-2015, f. & cert. ef. 8-19-15  
AUDIT 1-2014, f. & cert. ef. 2-13-14  
AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10  
AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07  
AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01  
DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95  
DOA 1-1991, f. 3-8-91, cert. ef. 7-1-91  
DOA 3-1986, f. & cert. ef. 5-29-86, Renumbered from 165-030-0100  
SD 104-1976, f. 2-20-76, cert. ef. 7-1-76

MINOR STATUORY CORRECTION: 162-010-0120

RULE SUMMARY: Minor statutory correction to delete duplicate period at the end of the paragraph.

CHANGES TO RULE:

Supplementary Financial Information (SI)

In addition to financial statements, notes and required supplementary information thereto, certain other financial information is considered necessary for full disclosure of the fiscal affairs of Oregon municipal corporations. Whenever appropriate, audit reports must contain the other financial information set forth in OAR 162-010-0130 through 162-010-0140 or reasonable combinations thereof. If information necessary to prepare these schedules, or any of them individually, is not readily available or is not maintained by the municipal corporation appropriate comments to that effect shall be included in the audit report. If appropriate, these schedules may be included in the notes to the financial statements.

Statutory/Other Authority: ORS 297  
Statutes/Other Implemented: ORS 297.465

History:

AUDIT 2-2015, f. & cert. ef. 8-19-15  
AUDIT 1-2014, f. & cert. ef. 2-13-14  
AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01  
DOA 2-1995, f. 3-1-95, cert. ef. 7-1-95  
DOA 3-1986, f. & cert. ef. 5-29-86, Renumbered from 165-030-0135  
SD 104-1976, f. 2-20-76, cert. ef. 7-1-76

AMEND: 162-010-0320

RULE SUMMARY: Amended to clarify county cost audits.

CHANGES TO RULE:

Other Comments and Disclosures

(1) The independent auditor shall include such other comments or disclosures with respect to the review of fiscal affairs and compliance with legal requirements as may be appropriate in the circumstances.

(2) Other comments and disclosures may include those related to any county cost audit performed in accordance with ORS 297.525. A cost audit may be performed at a county, specific to any road fund, if (1) the county performs their own road work, (2) the road fund is reported as a major fund, and (3) the county and a accountant engagement terms include a cost audit in the scope of work. The cost audit does not consist of specific procedures required by these Minimum Standards; the objectives are to verify the cost of performance and administration of county road work performed by the county, establish the accuracy of costing data and expense records, and determine whether the county adhered to approved budgets and planning. Contracted road work is not subject to cost auditing. The auditor should perform cost audit procedures in accordance with professional standards, be responsive to the auditor's risk assessment procedures, and consider the intent of material compliance as imbedded within these Minimum Standards for audits.

Statutory/Other Authority: ORS 297  
Statutes/Other Implemented: ORS 297.465

History:  
AUDIT 2-2015, f. & cert. ef. 8-19-15  
DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0295

AMEND: 162-010-0330

RULE SUMMARY: Amended to align with HB 2110 A.

CHANGES TO RULE:

#### Extensions of Time to Deliver Audit Reports

If the required report is not filed with the Secretary of State within six months following the end of the fiscal year, the municipal corporation shall file a written request for extension of time. The request shall state the reasons for the delay and the expected filing date of the report. The Secretary of State, for good cause shown, may grant the request for a reasonable period of time.

(1) Requests for extensions of time to deliver audit reports must be submitted in a manner as prescribed on forms provided by the Secretary of State. The request must contain the following information:

- (a) The name and registered or mailing address of the municipal corporation;
  - (b) The name, address, and signature of the accountant or firm, if known, conducting the audit;
  - (c) The accounting period under audit;
  - (d) A statement setting forth the reasons for the delay in delivering the audit report;
  - (e) The signed approval or disapproval of the request by the chair of the governing body, or managing or executive officer, of the municipal corporation. Reasons for disapproval must be included;
  - (f) Requests applicable to school districts and community colleges must also contain the signed approval or disapproval of the local district superintendent or the superintendent's designee.
- (2) A request for extension of time shall be submitted to the Secretary of State. The Secretary of State shall notify the independent auditor and the municipal corporation of its approval to grant an extension of time or reasons for its disapproval.

Statutory/Other Authority: ORS 297  
Statutes/Other Implemented: ORS 297.465

History:  
AUDIT 2-2015, f. & cert. ef. 8-19-15  
AUDIT 1-2010, f. 3-23-10, cert. ef. 4-1-10  
AUDIT 1-2007, f. 6-7-07, cert. ef. 6-30-07  
AUDIT 2-2001, f. 4-26-01, cert. ef. 7-1-01  
DOA 3-1986, f. & ef. 5-29-86, Renumbered from 165-030-0670  
SD 115-1977, f. & ef. 10-1-77