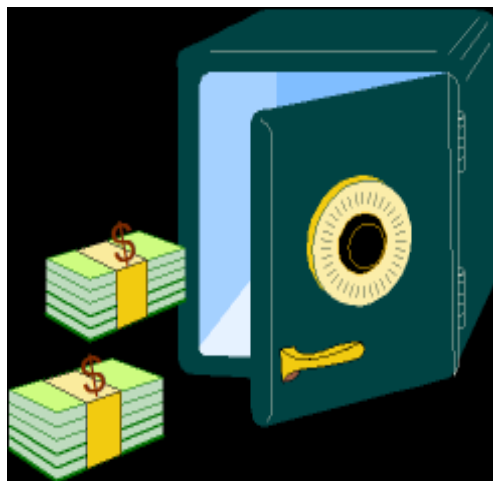


Collateralization = Protection Against Loss

by Dan Rowe, CPA

Most of us know that deposits with qualified financial institutions have Federal Deposit Insurance Corporation (FDIC) insurance that insures balances up to \$100,000. The interpretation of this is different when dealing with public funds, i.e. funds of a governmental unit. Insurance coverage for a governmental unit depends on the type of deposit and the location of the insured depository institution.



All “time and savings deposits” owned by a governmental entity and held by the same bank in an insured depository institution within the state in which the governmental entity is located are added together and insured up to \$100,000. Separately, all “demand deposits” in the same bank are added together and insured up to \$100,000. For purpose of these rules, the term “savings deposits” includes NOW accounts, money market deposit accounts, and other “interest-bearing checking accounts.” The FDIC has defined

“location within the State” to include an insured depository institution having a branch in the State. If the bank is located outside the State, all deposits owned by the public unit and held by the same custodian are added together and insured up to \$100,000.

Governmental entities that have deposits more than the \$100,000 insurance limits could lose some of their money in a bank failure. To protect against this risk, an entity should have their deposits above the FDIC insurable limits secured by collateral or private insurance, otherwise known by the term collateralization.

The Illinois Revised Statutes state: “Whenever a public agency deposits any public funds in a financial institution, the public agency may enter into an agreement with the financial institution requiring any funds not insured by the FDIC to be collateralized by securities or mortgages in an amount equal to at least market value of that amount of funds deposited exceeding the insurance limitation provided by the FDIC”.

A governmental entity, if it wants those excess deposits collateralized, must propose such an agreement to the bank pursuant to chapter 85, paragraph 906 (c) of the Illinois Revised Statutes. For the pledging to be enforceable, the pledge must be in writing, must have been approved by the Board of Directors of the depository institution and noted in the minutes of the board or committee meeting, and must be an official record of the depository institution. The bank, under the authority of Section 5(7)(d) of the Illinois Banking Act, would be authorized to execute such an agreement with the entity. However, the bank would be within its rights to refuse to enter into the agreement and thus refuse to collateralize those excess deposits. At that point, of course, the governmental entity could withdraw its deposits with that bank and take their deposits to another bank willing to enter into such a collateralization agreement.

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Uniform Disposition of Unclaimed Property Act

by Jerry Funk, CPA

A problem many governmental units face is what to do with old outstanding checks or unclaimed utility deposits. A common practice of many governments holding old checks has been to void the check and reestablish the amount to cash once all attempts had been made to get the payee to cash the check. Unfortunately, such a practice is not allowed in the Uniform Disposition of Property Act.



The act applies to all abandoned property held by federal, state or local government or governmental subdivision, agency, entity, officer or appointee thereof and includes all tangible or intangible personal property and all debts owed or entrusted. The property is presumed abandoned if it has remained unclaimed for seven years.

The Unclaimed Property Division came under the jurisdiction of the State Treasurer's office in July of 1999. The Treasurer's office requires all business entities, including governmental entities, to file by November 1st of each year whether or not the entity is holding unclaimed property. For those holding no unclaimed property, the State Treasurer requires a negative report to be filed. The activity cutoff for the November filing is June 30 of the

present year, less seven years. Example: If the report is due November 1, 2002, the activity cutoff date is June of 1995. Thus all property with a last customer activity date of June 30, 1995 and earlier is reportable on November 1, 2000. There is no minimum amount that shouldn't be reported. All abandoned property, no matter how small, must be remitted to the Treasurer's office.

Due to the fact that many business entities are not aware of the program, the Treasurer's office has created a holder Amnesty and Awareness Program. The program is designed to help any entity holding unclaimed property to come into compliance with the Unclaimed Property Act. An entity is eligible for the program if they are not currently under examination for unclaimed property violations or they have not been notified by the Treasurer's office of its intent to conduct an unclaimed property examination of the holder's books and records. To participate in the program, the Treasurer's Office must receive a signed Amnesty Agreement on or before June 1, 2003 and reports and remittances pursuant to the Agreement must be received by the Treasurer on or before December 31, 2003.

Holders should also report unclaimed property of other states to the Treasurer's office. Primary rights to unclaimed property belong to the state of the owner's last known address. The Treasurer's office will forward unclaimed property to the following states: CA, DC, FL, ID, IN, KY, MA, MN, MO, NE, NV, NM, ND, OH, RI, SD, UT, VA, WA, WI.

The forms and instructions for filing and more information about the Amnesty Program can be found at www.cashdash.net in the "holder's" section.



Collateralization = Protection Against Loss *continued from page 1*

A governmental entity's investment policy statement generally spells out the entity's requirements concerning collateralization of deposits. The following is an example of a typical investment policy's collateralization section:

1. It is the policy of the Treasurer to require that time deposits in excess of FDIC insurable limits to be secured by collateral or private insurance to protect public deposits in a single financial institution if it were to default.
2. Eligible collateral instruments are as follows:
 - a) Negotiable obligations of the United States Government;
 - b) Negotiable obligations of any agency or instrumentality of the United States Government backed by the full faith and credit of the United States Government;
 - c) Negotiable obligations of the State of Illinois which are rated A or better by Moodys or Standard and Poors.
3. Safekeeping of Collateral
 - a) Third party safekeeping is required for all collateral. To accomplish this, the securities must be held at one or more of the following locations:
 - 1) at a Federal Reserve Bank or branch office;
 - 2) at another custodial facility in a trust or safekeeping department through book-entry at the Federal Reserve;
 - 3) by an escrow agent of the pledging institution; or
 - 4) by the trust department of the issuing bank
 - b) Safekeeping will be documented by an approved written agreement between the Treasurer and the governing board of the bank that compiles the FDIC regulations.
 - c) Substitution or exchange of securities held in safekeeping can be approved exclusively by the Treasurer, and only if the market value of the replacement securities is equal to or greater than the market value of the securities being replaced.

Give the bank a clear understanding of what the balances will be so that the costs of the services will reflect the required amount of collateral they will have to obtain. Remember, it costs a bank to provide this collateral and costs are ultimately passed on to the customer. As one can see, collateralization of deposits can be more complicated than "what meets the eye". It is important to make the collateral conditions clear in the proposal process to avoid any problems later.

Disposing of Public Records, by Jerry Funk, CPA

It seems like adequate storage space for records is a problem in every business. In the case of governmental units, the problem seems exponentially worse. Microfilm, computers and other forms of electronic filing have helped ease the storage burden, but public records still seem to accumulate more and more every year.

Over the years, we have been asked by our governmental clients if they could dispose of certain records.

What many of them do not realize is that the State of Illinois regulates the disposition of public documents and it is only with their permission that any such document may be destroyed. The Local Records Commission of the Secretary of State's Office regulates which records can be destroyed and which must be held permanently. If your governmental unit has never contacted this division, in order to dispose of any record, they must be contacted first. They will ask that you first complete an "Application for Authority to Dispose of Local Records" and will conduct an on-site review of these records and come up recommendations as to the holding period for each item. Once the application has been approved, the items approved for destruction may be destroyed. Since this application



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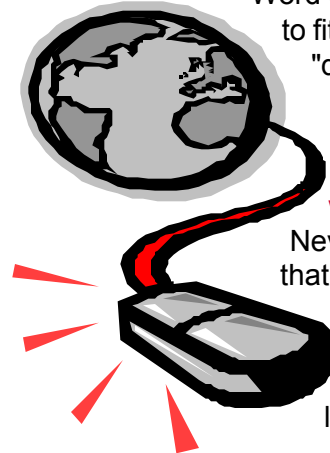
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Disposing of Public Records *continued from page 3*

becomes the record retention schedule of the governmental unit for future dispositions, it is important that it is complete. Once approved, the application should be kept on file permanently. To destroy any items not listed, you must go through the application process again for those items.

Once you have an approved application on file with the State, for all future disposals only one form, a "Records Disposal Certificate", need be filed listing the documents to be destroyed.

As long as the documents meet the following criteria, they will be approved for disposal:

- 1) the retention period listed in the original application is complete
- 2) all local, state, and federal audit requirements have been met
- 3) the documents are not needed for any litigation either pending or threatened
- 4) they are correctly listed on a "Records Disposal Certificate" submitted to and approved by the appropriate Local Records Commission.

If you have any questions, please feel free to contact any of our offices or the Local Records Commission at 217-782-7075.