



Dave Yost • Auditor of State



LIBERTY TOWNSHIP  
DELAWARE COUNTY

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# Dave Yost • Auditor of State

## INDEPENDENT AUDITOR'S REPORT

Liberty Township  
Delaware County  
10104 Brewster Lane, Suite 125  
Powell, Ohio 43065

To the Board of Trustees:

### ***Report on the Financial Statements***

We have audited the accompanying financial statements of the cash balances, receipts and disbursements by fund type, and related notes of Liberty Township, Delaware County, Ohio (the Township) as of and for the years ended December 31, 2015 and 2014.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for preparing and fairly presenting these financial statements in accordance with the financial reporting provisions Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D) permit; this responsibility includes designing, implementing and maintaining internal control relevant to preparing and fairly presenting financial statements free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to opine on these financial statements based on our audit. We audited in accordance with auditing standards generally accepted in the United States of America and the financial audit standards in the Comptroller General of the United States' *Government Auditing Standards*. Those standards require us to plan and perform the audit to reasonably assure the financial statements are free from material misstatement.

An audit requires obtaining evidence about financial statement amounts and disclosures. The procedures selected depend on our judgment, including assessing the risks of material financial statement misstatement, whether due to fraud or error. In assessing those risks, we consider internal control relevant to the Township's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not to the extent needed to opine on the effectiveness of the Township's internal control. Accordingly, we express no opinion. An audit also includes evaluating the appropriateness of management's accounting policies and the reasonableness of their significant accounting estimates, as well as our evaluation of the overall financial statement presentation.

We believe the audit evidence we obtained is sufficient and appropriate to support our audit opinions.

***Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles***

As described in Note 1B of the financial statements, the Township prepared these financial statements using the accounting basis permitted by the financial reporting provisions of Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D), which is an accounting basis other than accounting principles generally accepted in the United States of America (GAAP), to satisfy these requirements.

Although the effects on the financial statements of the variances between the regulatory accounting basis and GAAP are not reasonably determinable, we presume they are material.

Though the Township does not intend these statements to conform to GAAP, auditing standards generally accepted in the United States of America require us to include an adverse opinion on GAAP. However, the adverse opinion does not imply the amounts reported are materially misstated under the accounting basis Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D) permit. Our opinion on this accounting basis is in the *Opinion on Regulatory Basis of Accounting* paragraph below.

***Adverse Opinion on U.S. Generally Accepted Accounting Principles***

In our opinion, because of the significance of the matter discussed in the *Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles* paragraph, the financial statements referred to above do not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of the Township as of December 31, 2015 and 2014, or changes in financial position thereof for the years then ended.

***Opinion on Regulatory Basis of Accounting***

In our opinion, the financial statements referred to above present fairly, in all material respects, the combined cash balances of Liberty Township, Delaware County as of December 31, 2015 and 2014, and its combined cash receipts and disbursements for the years then ended in accordance with the financial reporting provisions Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D) permit, described in Note 1B.

***Other Reporting Required by Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated March 20, 2017, on our consideration of the Township's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. That report describes the scope of our internal control testing over financial reporting and compliance, and the results of that testing, and does not opine on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Township's internal control over financial reporting and compliance.



**Dave Yost**  
Auditor of State  
Columbus, Ohio

March 20, 2017

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**COMBINED STATEMENT OF RECEIPTS, DISBURSEMENTS  
AND CHANGES IN FUND BALANCES (CASH BASIS)  
ALL GOVERNMENTAL AND PRIVATE PURPOSE TRUST FUND TYPES  
FOR THE YEAR ENDED DECEMBER 31, 2015**

	General	Special Revenue	Debt Service	Capital Projects	Private Purpose Trust	Totals (Memorandum Only)
<b>Cash Receipts</b>						
Property and Other Local Taxes	\$1,096,233	\$6,617,323	\$1,386,673	\$0	\$0	\$9,100,229
Charges for Services	0	248,497	0	0	0	248,497
Licenses, Permits and Fees	351,065	17,123	0	0	0	368,188
Intergovernmental	216,345	1,150,393	186,238	220,243	0	1,773,219
Earnings on Investments	15,409	267	0	0	7	15,683
Miscellaneous	29,589	24,309	0	78,039	0	131,937
<i>Total Cash Receipts</i>	<u>1,708,641</u>	<u>8,057,912</u>	<u>1,572,911</u>	<u>298,282</u>	<u>7</u>	<u>11,637,753</u>
<b>Cash Disbursements</b>						
Current:						
General Government	883,340	0	0	0	0	883,340
Public Safety	0	5,904,723	0	0	0	5,904,723
Public Works	0	963,952	0	0	0	963,952
Conservation-Recreation	556,342	0	19,693	0	0	576,035
Capital Outlay	6,739	579,876	0	532,062	0	1,118,677
Debt Service:						
Principal Retirement	0	0	5,379,999	0	0	5,379,999
Interest and Fiscal Charges	0	0	282,833	0	0	282,833
<i>Total Cash Disbursements</i>	<u>1,446,421</u>	<u>7,448,551</u>	<u>5,682,525</u>	<u>532,062</u>	<u>0</u>	<u>15,109,559</u>
<i>Excess of Receipts Over (Under) Disbursements</i>	<u>262,220</u>	<u>609,361</u>	<u>(4,109,614)</u>	<u>(233,780)</u>	<u>7</u>	<u>(3,471,806)</u>
<b>Other Financing Receipts (Disbursements)</b>						
Sale of Bonds	0	0	4,115,000	0	0	4,115,000
Sale of Capital Assets	0	2,402	0	20,112	0	22,514
Transfers In	0	0	0	180,000	0	180,000
Transfers Out	0	(180,000)	0	0	0	(180,000)
<i>Total Other Financing Receipts (Disbursements)</i>	<u>0</u>	<u>(177,598)</u>	<u>4,115,000</u>	<u>200,112</u>	<u>0</u>	<u>4,137,514</u>
<i>Net Change in Fund Cash Balances</i>	<u>262,220</u>	<u>431,763</u>	<u>5,386</u>	<u>(33,668)</u>	<u>7</u>	<u>665,708</u>
<i>Fund Cash Balances, January 1</i>	<u>2,103,211</u>	<u>3,132,272</u>	<u>52,191</u>	<u>502,579</u>	<u>4,186</u>	<u>5,794,439</u>
<b>Fund Cash Balances, December 31</b>						
Restricted	0	2,875,979	57,577	282,970	4,193	3,220,719
Committed	0	688,056	0	185,941	0	873,997
Unassigned (Deficit)	2,365,431	0	0	0	0	2,365,431
<i>Fund Cash Balances, December 31</i>	<u>\$2,365,431</u>	<u>\$3,564,035</u>	<u>\$57,577</u>	<u>\$468,911</u>	<u>\$4,193</u>	<u>\$6,460,147</u>

The notes to the financial statements are an integral part of this statement.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**COMBINED STATEMENT OF RECEIPTS, DISBURSEMENTS  
AND CHANGES IN FUND BALANCES (CASH BASIS)  
ALL GOVERNMENTAL AND PRIVATE PURPOSE TRUST FUND TYPES  
FOR THE YEAR ENDED DECEMBER 31, 2014**

	General	Special Revenue	Debt Service	Capital Projects	Private Purpose Trust	Totals (Memorandum Only)
<b>Cash Receipts</b>						
Property and Other Local Taxes	\$955,120	\$6,561,309	\$1,345,195	\$0	\$0	\$8,861,624
Charges for Services	-	218,185	0	0	0	218,185
Licenses, Permits and Fees	317,927	12,090	0	0	0	330,017
Intergovernmental	233,757	1,249,801	181,056	0	0	1,664,614
Earnings on Investments	12,490	228	0	0	9	12,727
Miscellaneous	39,431	119,245	0	60,882	0	219,558
<i>Total Cash Receipts</i>	<u>1,558,725</u>	<u>8,160,858</u>	<u>1,526,251</u>	<u>60,882</u>	<u>9</u>	<u>11,306,725</u>
<b>Cash Disbursements</b>						
Current:						
General Government	939,500	0	0	0	0	939,500
Public Safety	0	5,732,769	0	0	0	5,732,769
Public Works	0	1,053,978	0	0	0	1,053,978
Conservation-Recreation	560,180	0	19,595	0	0	579,775
Capital Outlay	0	68,534	0	244,626	0	313,160
Debt Service:						
Principal Retirement	0	0	955,649	0	0	955,649
Interest and Fiscal Charges	0	0	544,698	0	0	544,698
<i>Total Cash Disbursements</i>	<u>1,499,680</u>	<u>6,855,281</u>	<u>1,519,942</u>	<u>244,626</u>	<u>0</u>	<u>10,119,529</u>
<i>Excess of Receipts Over (Under) Disbursements</i>	<u>59,045</u>	<u>1,305,577</u>	<u>6,309</u>	<u>(183,744)</u>	<u>9</u>	<u>1,187,196</u>
<b>Other Financing Receipts (Disbursements)</b>						
Sale of Capital Assets	0	0	0	29,827	0	29,827
Transfers In	0	0	8,710	150,000	0	158,710
Transfers Out	(8,710)	(150,000)	0	0	0	(158,710)
Advances In	104,000	0	104,000	0	0	208,000
Advances Out	(104,000)	0	(104,000)	0	0	(208,000)
<i>Total Other Financing Receipts (Disbursements)</i>	<u>(8,710)</u>	<u>(150,000)</u>	<u>8,710</u>	<u>179,827</u>	<u>0</u>	<u>29,827</u>
<i>Net Change in Fund Cash Balances</i>	50,335	1,155,577	15,019	(3,917)	9	1,217,023
<i>Fund Cash Balances, January 1</i>	<u>2,052,876</u>	<u>1,976,695</u>	<u>37,172</u>	<u>506,496</u>	<u>4,177</u>	<u>4,577,416</u>
<b>Fund Cash Balances, December 31</b>						
Restricted	0	2,226,450	52,191	280,976	0	2,559,617
Committed	0	905,822	0	221,603	4,186	1,131,611
Unassigned (Deficit)	<u>2,103,211</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,103,211</u>
<i>Fund Cash Balances, December 31</i>	<u>\$2,103,211</u>	<u>\$3,132,272</u>	<u>\$52,191</u>	<u>\$502,579</u>	<u>\$4,186</u>	<u>\$5,794,439</u>

The notes to the financial statements are an integral part of this statement.



**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**A. Description of the Entity**

The constitution and laws of the State of Ohio establish the rights and privileges of the Liberty Township, Delaware County, (the Township) as a body corporate and politic. A publicly-elected three-member Board of Trustees directs the Township. The Township provides road and bridge maintenance, cemetery maintenance, fire protection and emergency medical services, recreation and zoning services.

The Township's management believes these financial statements present all activities for which the Township is financially accountable.

**B. Accounting Basis**

These financial statements follow the accounting basis permitted by the financial reporting provisions of Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D). This basis is similar to the cash receipts and disbursements accounting basis. The Board recognizes receipts when received in cash rather than when earned, and recognizes disbursements when paid rather than when a liability is incurred. Budgetary presentations report budgetary expenditures when a commitment is made (i.e., when an encumbrance is approved).

These statements include adequate disclosure of material matters, as the financial reporting provisions of Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D) permit.

**C. Deposits and Investments**

The Township's accounting basis includes investments as assets. This basis does not record disbursements for investment purchases or receipts for investment sales. This basis records gains or losses at the time of sale as receipts or disbursements, respectively.

Money market mutual funds (including STAR Ohio) are recorded at share values the mutual funds report. The Township cash assets are held at STAR Ohio, STAR Plus, and the Delaware County Bank.

**D. Fund Accounting**

The Township uses fund accounting to segregate cash and investments that are restricted as to use. The Township classifies its funds into the following types:

**1. General Fund**

The General Fund accounts for and reports all financial resources not accounted for and reported in another fund.

**2. Special Revenue Funds**

These funds account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specified purposes other than debt service or capital projects. The Township had the following significant Special Revenue Funds:

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**D. Fund Accounting (Continued)**

**2. Special Revenue Funds (Continued)**

Road and Bridge Fund - This fund receives property tax money for constructing, maintaining, and repairing Township roads and bridges.

Gasoline Tax Fund - This fund receives gasoline tax money to pay for constructing, maintaining, and repairing Township roads.

Fire Services Fund - This fund receives property tax money from a special fire levy for covering the cost of fire protection and EMS services.

**3. Debt Service Funds**

These funds account for and report financial resources that are restricted, committed, or assigned to expenditure for principal and interest. The Township had the following significant Debt Service Funds:

General Bond Note Retirement Fund – This fund receives tax money earmarked to retire the bonded debt associated with the construction of the community recreation center.

Fire Tax Anticipation Note – This fund receives tax money from the special fire levy to retire a note associated with covering the cost of fire protection in 2013.

**4. Capital Project Funds**

These funds account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets.. The Township had the following significant capital project

Fire Department Capital – This fund is used for capital expenditures made by the Fire Department. The fund receives tax money from the special fire levy for this purpose.

Road Department Capital - This fund is used for capital expenditures made by the Road Department. The fund receives tax money from the inside 10 mill levy approved by the County Budget Commission for the Road and Bridge Fund.

Park Department Capital - This fund is used for capital expenditures made by the Park Department. The fund receives tax money from the inside 10 mill levy approved by the County Budget Commission for the General Fund.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

**D. Fund Accounting (Continued)**

**5. Fiduciary Funds**

Fiduciary funds include private purpose trust funds and agency funds. Trust funds account for assets held under a trust agreement for individuals, private organizations, or other governments which are not available to support the Township's own programs.

The Township's private purpose trust funds are for the benefit of maintaining and planting trees in the memorial tree grove at Liberty Park.

**E. Budgetary Process**

The Ohio Revised Code requires that each fund be budgeted annually.

**1. Appropriations**

Budgetary expenditures (that is, disbursements and encumbrances) may not exceed appropriations at the fund, function or object level of control and appropriations may not exceed estimated resources. The Board of Trustees must annually approve appropriation measures and subsequent amendments. Appropriations lapse at year end.

**2. Estimated Resources**

Estimated resources include estimates of cash to be received (budgeted receipts) plus cash as of January 1. The County Budget Commission must approve estimated resources.

**3. Encumbrances**

The Ohio Revised Code requires the Township to reserve (encumber) appropriations when individual commitments are made. Encumbrances outstanding at year end are canceled, and reappropriated in the subsequent year.

A summary of 2015 and 2014 budgetary activity appears in Note 3.

**F. Fund Balance**

Fund balance is divided into five classifications based primarily on the extent to which the Township must observe constraints imposed upon the use of its governmental-fund resources. The classifications are as follows:

**1. Nonspendable**

The Township classifies assets as *nonspendable* when legally or contractually required to maintain the amounts intact.

LIBERTY TOWNSHIP  
DELAWARE COUNTY

NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

F. Fund Balance (Continued)

2. Restricted

Fund balance is *restricted* when constraints placed on the use of resources are either externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or is imposed by law through constitutional provisions.

3. Committed

Trustees can *commit* amounts via formal action (resolution). The Township must adhere to these commitments unless the Trustees amend the resolution. Committed fund balance also incorporates contractual obligations to the extent that existing resources in the fund have been specifically committed to satisfy contractual requirements.

4. Assigned

Assigned fund balances are intended for specific purposes but do not meet the criteria to be classified as *restricted* or *committed*. Governmental funds other than the general fund report all fund balances as *assigned* unless they are restricted or committed. In the general fund, *assigned* amounts represent intended uses established by Township Trustees or a Township official delegated that authority by resolution, or by State Statute.

5. Unassigned

Unassigned fund balance is the residual classification for the general fund and includes amounts not included in the other classifications. In other governmental funds, the unassigned classification is used only to report a deficit balance.

The Township applies restricted resources first when expenditures are incurred for purposes for which either restricted or unrestricted (committed, assigned, and unassigned) amounts are available. Similarly, within unrestricted fund balance, committed amounts are reduced first followed by assigned, and then unassigned amounts when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

G. Property, Plant, and Equipment

The Township records disbursements for acquisitions of property, plant, and equipment when paid. The accompanying financial statements do not report these items as assets.

H. Accumulated Leave

In certain circumstances, such as upon leaving employment, employees are entitled to cash payments for unused leave. The financial statements do not include a liability for unpaid leave.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**2. EQUITY IN POOLED DEPOSITS AND INVESTMENTS**

The Township maintains a deposit and investments pool all funds use. The Ohio Revised Code prescribes allowable deposits and investments. The carrying amount of deposits and investments at December 31 was as follows:

	2015	2014
Demand deposits	\$42,525	\$212,331
STAR Plus	6,362,440	5,531,256
Total deposits	6,404,965	5,743,587
STAR Ohio	55,182	50,852
Total investments	55,182	50,852
Total deposits and investments	\$6,460,147	\$5,794,439

**Deposits:** Deposits are insured by the Federal Depository Insurance Corporation or collateralized by the financial institution's public entity deposit pool.

**Investments:** Investments in STAR Ohio and mutual funds are not evidenced by securities that exist in physical or book-entry form.

**3. BUDGETARY ACTIVITY**

Budgetary activity for the years ending December 31, 2015 and 2014 follows:

2015 Budgeted vs. Actual Receipts			
Fund Type	Budgeted Receipts	Actual Receipts	Variance
General	\$1,542,485	\$1,708,641	\$166,156
Special Revenue	7,629,838	8,060,314	430,476
Debt Service	5,665,550	5,687,911	22,361
Capital Projects	290,000	498,394	208,394
Private Purpose Trust	0	7	7
Total	\$15,127,873	\$15,955,267	\$827,394

2015 Budgeted vs. Actual Budgetary Basis Expenditures			
Fund Type	Appropriation Authority	Budgetary Expenditures	Variance
General	\$1,912,000	\$1,446,421	\$465,579
Special Revenue	8,225,398	7,628,551	596,847
Debt Service	5,686,771	5,682,525	4,246
Capital Projects	667,782	532,062	135,720
Private Purpose Trust	4,187	0	4,187
Total	\$16,496,138	\$15,289,559	\$1,206,579

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**3. BUDGETARY ACTIVITY (Continued)**

2014 Budgeted vs. Actual Receipts			
Fund Type	Budgeted Receipts	Actual Receipts	Variance
General	\$1,372,435	\$1,662,725	\$290,290
Special Revenue	7,772,233	8,160,858	388,625
Debt Service	1,526,185	1,638,961	112,776
Capital Projects	226,000	240,709	14,709
Private Purpose Trust	0	9	9
Total	\$10,896,853	\$11,703,262	\$806,409

2014 Budgeted vs. Actual Budgetary Basis Expenditures			
Fund Type	Appropriation Authority	Budgetary Expenditures	Variance
General	\$1,672,010	\$1,612,390	\$59,620
Special Revenue	7,477,631	7,055,281	422,350
Debt Service	1,524,585	1,623,942	(99,357)
Capital Projects	656,603	244,626	411,977
Private Purpose Trust	4,176	0	4,176
Total	\$11,335,005	\$10,536,239	\$798,766

In accordance to Ohio Rev. Code § 5705.41(B), the Township did not appropriate for the Ohio Public Works Commission Issue 2 project in the Capital Projects Fund during 2015.

**4. PROPERTY TAX**

Real property taxes become a lien on January 1 preceding the October 1 date for which the Trustees adopted tax rates. The State Board of Tax Equalization adjusts these rates for inflation. Property taxes are also reduced for applicable homestead and rollback deductions. The financial statements include homestead and rollback amounts the State pays as Intergovernmental Receipts. Payments are due to the County by December 31. If the property owner elects to pay semiannually, the first half is due December 31. The second half payment is due the following June 20.

Public utilities are also taxed on personal and real property located within the Township.

The County is responsible for assessing property, and for billing, collecting, and distributing all property taxes on behalf of the Township.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**5. DEBT**

Debt outstanding at December 31, 2015 was as follows:

	Principal	Interest Rate
2015 Refund Bonds	\$4,115,000	various
Fire Operation Notes	3,000,000	1.94%
Total	\$7,115,000	

**Refunded Recreation Center Bonds**

The Township issued advance refunding bonds on March 29, 2006 in the amount of \$5,433,980 for a term of twenty years. The Township entered into an escrow agreement which requires the escrow trustee to purchase securities to pay interest and principal to the original bond holders. Principal payments are due annually and interest payments are due semi-annually. The Township's taxing authority collateralized the bonds. These bonds were called on December 1, 2015 at par value.

**Refunded Park Improvement Note**

The Township issued current refunding notes on September 30, 2009, in the amount of \$430,000 for a term of five years to pay off the Series 2007 Township Park Improvement Notes outstanding. Principal payments are due annually and interest payments are due semi-annually. The Township's taxing authority collateralized the notes. This Note was paid in full in 2014

**Fire Operation Note**

The Township issued tax anticipation notes on March 8, 2013, in the amount of \$4,800,000 for a term of five years. Principal payments and interest payments are due semi-annually – April and October first. The Township's taxing authority collateralized the note.

**2015 Refunded Recreation Center Bond**

The Township issued a current refunding bond on November 30, 2015 in the amount of \$4,115,000 for a term of twelve years to call the outstanding bonds of the Series 2006 Refunded Recreation Bonds. Principal payments and interest payments are due semi-annually - June and December first. The Township's taxing authority collateralized this bond.

Amortization of the above debt, including interest, is scheduled as follows:

Year ending December 31:	Refunding	Note
2016	\$426,817	\$1,058,200
2017	419,406	1,038,800
2018	412,453	1,019,400
2019	405,499	
2020	398,545	
2021-2025	2,643,792	
Total	\$4,706,512	\$3,116,400

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**6. RETIREMENT SYSTEMS**

The Township's certified Fire Fighters belong to the Police and Fire Pension Fund (OP&F). Other employees belong to the Ohio Public Employees Retirement System (OPERS). OP&F and OPERS are cost-sharing, multiple-employer plans. The Ohio Revised Code prescribes these plans' benefits, which include postretirement healthcare and survivor and disability benefits.

The Ohio Revised Code also prescribes contribution rates. The employer contribution rates for 2014 and 2015 are 14% for OPERS and 24% for OP&F. The employee contribution rates are 10% for OPERS in both years and 10.75% for OP&F from January 1, 2014 through July 1, 2014; 11.50% from July 2, 2014 through July 1, 2015; and 12.25% from July 2, 2015 through December 31, 2015 for OP&F . In addition to the employer contribution, the Township "picks up" a portion of the employees' contribution per the table below.

OPERS Township "Pick-Up" of Employee Contribution 2014-2015		
	Township "Pick-Up" Rate	Employee Contribution Rate
Union	10%	0%
Non-union full time staff	0%	10%
Part-time Park Staff	0%	10%
Part-time non-Park Staff	10%	0%
Elected Officials	0%	10%
Assistant Fiscal Officer	0%	10%

OP&F Township "Pick Up" of Employee Contributions (year-end)		
	Township "Pick-Up" Rate	Employee Contribution Rate
Fire Chief		
2014	10%	1.5%
2015	10%	2.25%
Union Members		
2014	2.5%	9.0%
2015	0%	12.25%

The Township has paid all contributions required through December 31, 2015.

**7. RISK MANAGEMENT**

**Commercial Insurance**

The Township has obtained commercial insurance for the following risks:

- Comprehensive property and general liability;
- Vehicles; and
- Errors and omissions.



**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**NOTES TO THE FINANCIAL STATEMENTS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**8. CONTINGENT LIABILITIES**

The Township is defendant in a lawsuit. Although management cannot presently determine the outcome of this suit, management believes that the resolution of this matter will not materially adversely affect the Township's financial condition.

Amounts grantor agencies pay to the Township are subject to audit and adjustment by the grantor, principally the federal government. The grantor may require refunding any disallowed costs. Management cannot presently determine amounts grantors may disallow. However, based on prior experience, management believes any refunds would be immaterial.

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# Dave Yost • Auditor of State

## INDEPENDENT AUDITOR'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS REQUIRED BY GOVERNMENT AUDITING STANDARDS

Liberty Township  
Delaware County  
10104 Brewster Lane, Suite 125  
Powell, Ohio 43065

To the Board of Trustees:

We have audited, in accordance with auditing standards generally accepted in the United States and the Comptroller General of the United States' *Government Auditing Standards*, the financial statements of the cash balances, receipts, and disbursements by fund type of the Liberty Township, Delaware County, (the Township) as of and for the years ended December 31, 2015 and 2014, and the related notes to the financial statements, and have issued our report thereon dated March 20, 2017, wherein we noted the Township followed financial reporting provisions Ohio Revised Code Section 117.38 and Ohio Administrative Code Section 117-2-03(D) permit.

### ***Internal Control Over Financial Reporting***

As part of our financial statement audit, we considered the Township's internal control over financial reporting (internal control) to determine the audit procedures appropriate in the circumstances to the extent necessary to support our opinions on the financial statements, but not to the extent necessary to opine on the effectiveness of the Township's internal control. Accordingly, we have not opined on it.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, when performing their assigned functions, to prevent, or detect and timely correct misstatements. A *material weakness* is a deficiency, or combination of internal control deficiencies resulting in a reasonable possibility that internal control will not prevent or detect and timely correct a material misstatement of the Township's financial statements. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all internal control deficiencies that might be material weaknesses or significant deficiencies. Therefore, unidentified material weaknesses or significant deficiencies may exist. We did identify a certain deficiency in internal control, described in the accompanying schedule of findings that we consider a material weakness. We consider finding 2015-001 to be a material weakness.

***Compliance and Other Matters***

As part of reasonably assuring whether the Township's financial statements are free of material misstatement, we tested its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could directly and materially affect the determination of financial statement amounts. However, opining on compliance with those provisions was not an objective of our audit and accordingly, we do not express an opinion. The results of our tests disclosed instances of noncompliance or other matters we must report under *Government Auditing Standards* which are described in the accompanying schedule of findings as items 2015-001 and 2015-002.

***Township's Responses to Findings***

The Township's responses to the findings identified in our audit are described in the accompanying schedule of findings. We did not audit the Township's response and, accordingly, we express no opinion on them.

***Purpose of this Report***

This report only describes the scope of our internal control and compliance testing and our testing results, and does not opine on the effectiveness of the Township's internal control or on compliance. This report is an integral part of an audit performed under *Government Auditing Standards* in considering the Township's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.



**Dave Yost**  
Auditor of State  
Columbus, Ohio

March 20, 2017

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014**

**FINDING NUMBER 2015-001**

**Non-Compliance/Material Weakness: Issue 2 Funds**

**Ohio Rev. Code § 5705.09 (F)** requires that a subdivision establish a special fund for each class of revenue derived from a source, other than general property tax, which the law requires to be used for a particular purpose. OPWC Project # CQ34R Notification of Project Approval requires the following of the accounting methods specified in AOS Bulletin 2002-004. This accounting requirement is considered to be part of the terms and conditions of participation Issue II programs. Auditor of State Bulletin 2002-004 clarifies the application of Revised Code § 5705.09 to Issue 2 projects, and notes that the Township's Board of Trustees should establish, by resolution a separate Capital Projects Fund to account for each Issue 2 project funded from the Ohio Public Works Commission (OPWC). Additionally, Ohio Revised Code Section 5705.42 provides that when the United States government or the state or any department, division, agency, authority, or unit thereof makes a grant or loan of money to any political subdivision of this state to aid in paying the cost of any program, activity, or function of such subdivision, or enters into an agreement with the subdivision for the making of any such grant or loan of money, the amount thereof is deemed appropriated for such purpose by the taxing authority of the subdivision as provided by law and shall be recorded as such by the fiscal officer of the subdivision, and is deemed in process of collection within the meaning of section 5705.41 of the Revised Code.

Government Accounting Standards Board Statement 54 paragraph 33 states *Capital projects funds are used to account for and report financial resources that are restricted, committed, or assigned to expenditure for capital outlays, including the acquisition or construction of capital facilities and other capital assets. Capital projects funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments.*

In addition, Auditor of State's Audit Bulletin 2000-008 provides guidance to cash basis entities for the accounting treatment of on behalf transactions; The Audit Bulletin states:

*When a local government enters into an on-behalf-of program agreement with another local government or the State, whereby the local government or its residents are the beneficiaries under the agreement, the cash value benefit of the program received under the agreement should be recorded as memorandum receipts and disbursements in the year on-behalf-of disbursements are made.*

Liberty Township did not establish the required Capital Projects (Issue 2) Fund in accordance with Ohio Rev. Code § 5709.09(F) and the Township did not record the related revenues and expenditures of \$220,243 for the year ended December 31, 2015. The Township's Issue 2 monies went directly from OPWC to the appropriate contractor, as is common procedure with Issue 2 funding, and the Township did not record these monies coming into the Township or being expended to the contractor and failed to record the appropriations within its accounting records as required. Consequently, the Township violated Ohio Rev. Code § 5705.42 when it failed to properly account for these monies. The financial statements and footnotes include the proper adjustments to reflect the Issue 2 project within the Capital Projects Fund.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-001 (continued)**

**Non-Compliance/Material Weakness: Issue 2 Funds (continued)**

We recommend the Township establish a separate Capital Projects Fund for each Issue 2 project in order to account for the related receipts and disbursements to the extent the local government has received benefit from each project and budget for these monies accordingly.

**Former Fiscal Officers' Response:**

The above transaction is non-cash. The Township did not receive any cash from the Ohio Public Works Commission. If the Township had received cash, it would have been accounted for as described above.

The Township uses the accounting program, UAN, which is provided by the State Auditor. Accounting results/records are reported using the State Auditor approved Regulatory-Cash method. The operative concept is "Cash".

Reporting a non-cash transaction as cash creates, in my opinion, a fraudulent transaction. UAN treats all receipts and disbursements as cash. The Fiscal Officer must sign the certification below for all purchase orders and a similar one for all disbursements that the cash "...is in the Treasury or in the process of collection..."

**FISCAL OFFICER CERTIFICATE**

It is hereby certified that the amount of \$1,801.40 required to meet the contract agreement, obligation, or expenditure for the above, has been lawfully appropriated, authorized or directed for such purpose and is in the Treasury or in the process of collection to the credit of the

Making this certification is fraudulent since no cash is received or disbursed.

This non-cash transaction can also lead to unintended results. Township trustees and fiscal officer are paid an amount based on the budget of the township. The bond that the fiscal officer provides is also based on the budget. The responsibility of these officials is for the cash expenditures that the township makes. Including non-cash transactions in the budget can lead to unintended results.

Assume a township has a budget of \$500,000. ORC 507.09 states that the fiscal officer is paid \$14,854 and ORC 505.24 states a trustee is paid a maximum \$9,454. This township receives an OPWC grant of \$220,000 to replace a bridge. The township does not receive any cash. OPWC pays the \$220,000 directly to the contractor. However, the township increases the budget to \$720,000. The compensation for the fiscal officer becomes \$17,826 and a trustee \$10,802. What's changed? Nothing. The cash they're responsible for is the same, but because of a non-cash transaction they will be paid more.

The State Auditor has the power to modify Auditor of State's Audit Bulletin 2000-008 for entities that use the Regulatory-Cash method of accounting. An OPWC grant and all other grants should be report in the notes to the financial statements. Only grants where cash is received and disbursed should be reported as receipts and expenditures. The State Auditor should also eliminate GASB Statement 54 as was done with GASB Statement 67, *Financial Reporting for Pension Plans*. There is little difference between the classifications of committed and restricted. In fact, the Microsoft Word thesaurus states that constrained is a synonym for both words.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-001 (continued)**

**Auditor of State's (AOS) Conclusion:**

The Township's response has been broken down and addressed in three sections

Township response synopsis one:

The Fiscal Officer asserts that the OPWC on-behalf payment is non-cash; cash was not received from the Ohio Public Works Commission. If the Township had received cash, it would have been accounted for as described above. Further the assertion is made that The Township uses the accounting program, UAN, which is provided by the State Auditor. Accounting results/records are reported using the State Auditor approved Regulatory-Cash method and that reporting a non-cash transaction as cash creates a fraudulent transaction. UAN treats all receipts and disbursements as cash. The Fiscal Officer must sign the certification below for all purchase orders and a similar one for all disbursements that the cash "...is in the Treasury or in the process of collection..."

AOS Response:

The Auditor of State has issued a UAN system accounting manual, which prescribes the accounting treatment for Ohio Public Works Commission (OPWC) funds throughout. For example, chapter 3 of the manual describes the receipt option for OPWC transactions, "The Memo option is used to record the receipt of money in which memo charges are included like tax settlements distributed by the county auditor. A memo can also be used to record the revenue and expenditures from a project like Ohio Public Works Commission (OPWC)." Appendix A of the manual indicates that Public Works Commission Project-Issue 2 funds are to be accounted for in a capital projects fund. Appendix E, the frequently asked questions, states, "Issue II /OPWC transactions are posted once the project is complete and the transaction is posted in your system as Memo Receipt, and the net receipt is zero due to the receipt distribution and charge distribution amounts being equal." As the manual indicates a process has been established to record the receipts and disbursements at once and does not result in fraudulent transactions.

Township response synopsis two:

The Fiscal Officer asserts that recording of non-cash transaction can also lead to unintended results such as trustees and fiscal officer being paid more because the on behalf payments increase the annual budget, which is used as the basis for pay.

AOS Response:

Upon acceptance of an OPWC agreement, the Township must monitor the transaction to ensure the vendor is getting paid for work that has been completed in accordance with the specs outlined in the contract with the vendor. The Township cannot rely on OPWC to perform the monitoring for them. Thus, the Board and Fiscal Officer must take on additional responsibilities to ensure the work is performed as outlined in the contract and within the requirements of Ohio Law and can serve as a justification for the additional payroll allowance. However, it should be mentioned that while ORC 505.24 sets a maximum amount for pay; there is nothing within the Ohio Revised Code that precludes the governing board to set its compensation at a lower rate.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-001 (continued)**

**Auditor of State's (AOS) Conclusion (continued):**

Township response synopsis three:

The Fiscal Officer asserts that the State Auditor has the power to modify Auditor of State bulletins and should rescind the current guidance concerning on behalf payments as it pertains to the AOS regulatory basis of accounting and present a note disclosure for on behalf grants. Additionally the Auditor should eliminate GASB 54 as was done with GASB 67. Furthermore, as GASB 54 and subsequent guidance is concerned, there is little difference between the classifications of committed and restricted. In fact, the Microsoft Word thesaurus states that constrained is a synonym for both words.

AOS Response:

The Auditor's authority to prescribe reporting formats is outlined in ORC 117.38, each public office, other than a state agency, shall file a financial report for each fiscal year. The Auditor of State may prescribe forms by rule or may issue guidelines, or both, for such reports. If the Auditor of State has not prescribed a rule regarding the form for the report, the public office shall submit its report on the form utilized by the public office. Further, OAC 117-2-03 (D) requires that other local public offices who do not prepare their annual reports using generally accepted accounting principles or another comprehensive basis of accounting shall file their annual financial reports on the regulatory basis prescribed by the auditor of state. If the auditor of state has not prescribed an annual financial reporting format for a type of local public office, those public offices shall file financial statements annually with the auditor of state, using the format used by the local public office.

GASB through their pronouncements establishes governmental GAAP. The Auditor of State analyzes all pronouncements and determines applicability to the AOS basis reporting and if they are warranted to be implemented into said reporting format. When adopted into AOS basis of accounting it is to provide consistency of reporting across all reporting formats for all clients and these decisions are communicated to clients through AOS audit Bulletins.

AOS Bulletin 2000-008, *Accounting for Cash Basis Local Governments' Participation in On-Behalf-of Grants or Improvement Projects*, describes the accounting treatment for "on-behalf-of programs" where local governments are the beneficiaries of programs carried out or administered by other local governments or the State.

As part of this bulletin, AOS requires local governments to record memorandum receipts and disbursements in the year on-behalf-of disbursements are made on the cash basis of accounting if the local government or its residents are the recipients of benefits as evidenced by an agreement or approved program application. This bulletin was intended for local governments and can be considered an application of GASB 24 to AOS Basis reporting entities, as the bulletin also advises GAAP reporting entities that the information contained within may be helpful when applying GASB 24.



**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-001 (continued)**

**Auditor of State's (AOS) Conclusion (continued):**

GASB Statement No. 24, *Accounting and Financial Reporting for Certain Grants and Other Financial Assistance*. GASB Statement No. 24 requires, in part:

As a general rule, recipient governments should recognize all cash pass-through grants as revenue and expenditures or expenses in a governmental, proprietary, or trust fund. In those infrequent cases in which a recipient government serves only as a cash conduit—that is, it has no administrative or direct financial involvement in the program—the grant should be reported in an agency fund.

Within the Statement, GASB goes on to explain that when the local government has a legal obligation related to an agreement or program, the local government should be recording the related on-behalf-of activity in its accounting system.

In 2002, AOS issued AOS Bulletin 2002-004, *Public Works Commissions Infrastructure Project Accounting (Issue 2 Money)*, in cooperation with the OPWC due to the numerous accounting errors identified in financial and oversight audits and reviews. As part of the terms and conditions of most OPWC agreements, the local government is agreeing to comply with a local participation percentage of the total project costs and then receiving state or Federal assistance to subsidize the remaining portion. The local government is permitted to finance its local participation obligation with local or state monies, including OPWC Issue II grants and loans. AOS Bulletin 2002-004 required, in part:

For payments made to the contractor, the State will notify the fiscal officer of the amount disbursed. Upon receipt of this notice, each local government shall record a receipt and expenditure in the capital projects fund equal to the amount disbursed by the OPWC.

Since the issuance of our Bulletin, the OPWC sends a Notification of Project Approval to local government fiscal officers requiring them to follow the accounting methods specified in AOS Bulletin 2002-004 for OPWC-funded projects. This accounting requirement is considered by OPWC to be part of the terms and conditions of participation in their Issue II programs. Several other State and grantor agencies include similar accounting guidance for on-behalf-of transactions within their programmatic terms and conditions as well.

In 2005, the AICPA issued an interpretation of one of its auditing standards (i.e., AU Section 623, *Special Reports*) that affected those governments that prepare their financial statements using the cash or modified cash basis of accounting (also known as an Other Comprehensive Basis of Accounting or OCBOA). These entities report cash received and cash paid, rather than reporting their financial activity pursuant to GAAP. Subsequent to the issuance of their interpretation, the AICPA produced the first OCBOA basis accounting guide. The AICPA's latest OCBOA guide includes the following guidance pertaining to pure cash accounting requirements for on-behalf-of activity:

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-001 (continued)**

**Auditor of State's (AOS) Conclusion (continued):**

On occasion, a single-step transaction or event may occur that does not directly involve an inflow or outflow of an entity's cash but may nevertheless be reported as an in-substance two-step cash transaction or event under the pure cash basis of accounting. For example, one government entity might make a payment of cash to a third party on behalf of another government entity (for example, a state contribution paid directly by the state to a local government's pension plan). Questions often arise about whether this transaction or event can or should be reported in accordance with the pure cash basis of accounting. This single-step transaction may be reported as an in-substance two-step cash transaction or event by the benefitting local government as a cash receipt contribution received from the state and a cash disbursement for the contribution paid to the pension plan.

Both the cash basis of accounting and the regulatory basis of accounting share in the same cash treatment of reporting financial transactions. As can be seen in the AICPA guidance, a two step transaction for a benefitting government can be reported in a pure cash accounting, such as the AOS basis where the OPWC projects result in a benefit to the local government.

With the pronouncement of GASB 54, GASB not only modified fund balance reporting definitions and their application but also superseded the definitions of fund type initially set in NCGA Statement 1. In order to maintain consistency in fund classification and fund balance reporting across all reporting types AOS Bulletin 2011-04 made GASB 54 fund classifications and fund balance recording applicable to regulatory reporters as well. Additionally it should be mentioned that the accounting definitions of restricted and committed find their origins within the GASB pronouncement and not within AOS advisory guidance.

While GASB 68 was a significant recent pronouncement, the accounting related to 68 would result in a liability, which would not have an impact on regulatory reporters and only result in a note disclosure, and in most cases the State Auditor has not required this disclosure for regulatory reporting unless mandated by Ohio Revised Code to report on a GAAP basis. This is an important distinction and serves to lend credence to the fact the Auditor's office analyzes new GASB pronouncements across the entire spectrum of reporting and for AOS regulatory reporting, implements the statements that provide consistency across all reports.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-002**

**Finding for Recovery**

**Ohio Rev. Code § 505.603(A)** provides, in relevant part, that in addition to or in lieu of providing benefits to township officers and employees under section 505.60, 505.601, or 505.602 of the Revised Code, a board of township trustees may offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the Internal Revenue Code of 1965, 100 Stat. 2085, 26 U.S.C.A. 125, as amended, after first adopting a policy authorizing an officer or employee to receive a cash payment in lieu of a benefit otherwise offered to township officers or employees under any of those sections, but only if the cash payment does not exceed twenty-five per cent of the cost of premiums or payments that otherwise would be paid by the board for benefits for the officer or employee under an offered policy, contract, or plan. No cash payment in lieu of a benefit shall be made pursuant to this section unless the officer or employee signs a statement affirming that the officer or employee is covered under another health insurance or health care policy, contract, or plan in the case of a health benefit...and setting forth the name of the employee, if any, that sponsors the coverage, the name of the carrier that provides the coverage, and an identifying number of the applicable policy, contract, or plan.

**Liberty Township Resolutions #13-0401-13, #15-0323-03 and #16-0321-13** provided in part that the Township shall continue its opt-out program for employees who have health insurance coverage from another source. This program will continue to pay an opt-out bonus to the employee of 50% of the premium of the insurance coverage that the employee would receive if the insurance is provided by the Township.

In addition, the International Association of Firefighters and United Steel Workers Agreements provided in part that opt-out employees who opt-out of participation in the Township's insurance plan may receive an amortized incentive pay in the amount of fifty percent of the premium costs of health insurance coverage for the respective benefit class.

**Ohio Rev. Code § 4117.10(A)** provides that with certain exceptions a qualifying collective bargaining agreement governs as to wages, hours, and terms and conditions of employment. Therefore, the union agreements mentioned above would allow for Township employees that are part of these unions to receive the fifty percent of the premium costs of health insurance coverage incentive pay. Elected officials and non-union employee's health insurance opt out payments need to be in accordance with Ohio Rev. Code § 505.603(A).

The following individuals were paid health insurance opt out payments in excess of twenty-five percent in 2014, 2015 and 2016:

	<b>Total Allowable Payments</b>	<b>Total Payments Paid</b>	<b>Overpaid Amount</b>
Thomas Mitchell	\$10,814	\$21,627	\$10,813
David Patterson	\$507	\$1,014	\$507
Richard Spellman	\$1,127	\$2,254	\$1,127

In accordance with the foregoing facts and pursuant to Ohio Rev. Code § 117.28, a Finding for Recovery for public monies illegally expended is hereby issued against Thomas Mitchell and his bonding company, The Cincinnati Insurance Company, in the amount of \$10,813, David Patterson in the amount of \$507, and Richard Spellman in the amount of \$1,127 in favor of Liberty Township's General Fund, in the amount of \$12,447.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**FINDING NUMBER 2015-002 (continued)**

**Finding for Recovery (continued)**

Under Ohio law, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which an illegal expenditure is discovered, is strictly liable for the amount of the expenditure. *Seward v. National Surety Corp.*, 120 Ohio St. 47 (1929); 1980 Op. Att’y Gen. No. 80-074; Ohio Rev. Code § 9.39; *State ex. rel. Village of Linndale v. Masten*, 18 Ohio St.3d 228 (1985). Public officials controlling public funds or property are liable for the loss incurred should such funds or property be fraudulently obtained by another, converted, misappropriated, lost or stolen.

Former Fiscal Officer, Mark Gerber, and Fiscal Officer, Nancy Denutte signed the warrants resulting in the improper payments. The table below outlined the amounts these individuals and their bonding companies are jointly and severally liable to the extent that recovery is not obtained from Thomas Mitchell, David Patterson, and Richard Spellman.

Mark Gerber and The Cincinnati Bonding Company	\$10,545
Nancy Denutte and Traveler’s Casualty and Surety Company of America	\$1,902

On May 5, 2017, a payroll deduction of \$507 was made from David Patterson’s payroll and paid in favor of the Township’s General Fund.

**Official’s Responses:**

**Former Fiscal Officer, Mark Gerber:**

The following is a summary of a response provided by former fiscal officer, Mark Gerber. The full response can be obtained from the Auditor of State’s Office.

Conditions and limits in Ohio Rev. Code §505.603(A) are based on a board of township trustees adopting an IRS qualified cafeteria plan. Liberty Township never adopted such a plan. On May 1, 2008 Resolution #08-0501-03 “authorized the establishment of an IRS Section 125 plan for the purposes of “pre-tax” health care and other payroll benefits as appropriate”. This resolution authorized the creation of a “Premium Only Plan” Section 125 plan to pay the premium contributions for insurances, Township Health Savings Account (HSA) contributions and other uses as appropriate.

A Section 125 Premium Only Plan is a cafeteria plan that offers an employee the choice between paying his contribution to the employer’s insurance program with taxable dollars (keeping his full salary/wages) or making the contribution with tax free dollars by choosing a salary/wages reduction. A Premium Only Plan 125 plan cannot provide for payments in lieu of not taking the township’s insurance or any other benefits.

The trustees authorized one use and one use only of the 125 program. For the 25% limit on cash in lieu of taking the township insurance specified in ORC §505.603(A), the township opt-out incentive program by IRS rules would have to be included as a benefit in a Section 125 cafeteria program.

Section 125(D)(1) requires that for a cafeteria plan to exist “The written plan must specifically describe all benefits and establish rules for eligibility and elections.” By definition the benefits of a Premium Only Plan are defined and cannot be expanded.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**Official's Responses (continued):**

**Former Fiscal Officer, Mark Gerber (continued):**

The "Liberty Township, Delaware County, Section 125 Cafeteria Plan, ADOPTION AGREEMENT" which identifies "Liberty Township, Delaware County" as the "Employer Organization", and characterizes the arrangement as a "cafeteria plan" which is to take effect on January 1, 2009 did not specify any benefits in Item V (the item where benefits for a non-POP plan must be specified). By Ohio law the township board of trustee must have approved such a plan by passing a resolution. Liberty Township never did this. The conclusion that Ohio Revised Code §505.603(A) applies to township's IRS Section 125 Premium Only plan is wrong.

The Liberty Township resolutions #13-0401-13, #15-0323-03 and #16-0321-13 all contain the statement "This program will continue to pay an opt-out bonus to the employee of 50% of the premium of the insurance coverage..." The language is clear that the opt-out program payment is a bonus. The language in labor union contracts unanimously passed by the Liberty Township board of trustees clearly states that the opt-out payment is an incentive payment. The opt-out program is an incentive program created because ORC §505.60(C) provides that "Any township officer or employee may refuse to accept any coverage authorized by this section..."

**Trustee Melanie Leneghan:**

The following is a summary of the response provided. The full response can be obtained from the Auditor of State's Office.

Mr. Gerber recommended the cash in lieu plan to the 2009 Board of Trustees who passed Resolution # 09-1221-07 which referenced ORC 505.60 which is a reimbursement plan. Mr. Gerber again recommended his cash in lieu program to the 2010 Board of Trustees who passed resolution 10-0315-04 which also referenced ORC 505.60 which is a reimbursement plan. In both cases, Mr. Gerber did not in fact implement a reimbursement plan, but instead he implemented a cash in lieu program whose expenses had never been approved by the board of Trustees. He never implemented the program that he described in his resolutions. Mr. Gerber changed the wording of the future resolutions, but still continued to pay out an illegal 50% to the employees who chose to opt out. He continued the illegal program in 2012, 2013, 2014, and 2015.

Upon taking office in April of 2016 Nancy Denutte questioned the opt out payments being made and contacted the Delaware County Prosecutor's Office for guidance. Please see below for a summary of actions taken by Nancy Denutte in 2016 to address this issue.

It seems irresponsible and inappropriate and inaccurate to suggest that Fiscal Officer Denutte is in any way responsible for any illegally spent taxpayer dollars. Mrs. Denutte should instead be praised for her diligence and hard work to identify ,uncover, research, and battle to stop the illegal spending of taxpayer dollars and to recover Liberty Townships taxpayers' hard earned money that was spent illegally.

**Current Fiscal Officer, Nancy Denutte:**

Corrections made upon taking office on April 1, 2016:

- Sought legal advice on 4/4/2016, immediately upon taking office. (I had attended OTA training 1/2016 and was made aware of ORC 505.60 because of union negotiations under way)
- Followed legal advice of prosecutor and employment specialist legal.
- Reached out to Auditors office for guidance.
- Specifically asked the Board of Trustees and legal counsel if I could stop making the illegal payments and I was told NO.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**Official's Responses (continued):**

**Current Fiscal Officer, Nancy Denuette (continued):**

- Provided a packet of pertinent information to AOS fraud on June 15.
- Notified the Board of Trustees and continually asked the Board to move forward to correct the illegal program.
- Contacted benefits supplier to obtain spreadsheet of opt out payments.
- Fired Benefits supplier as it was his job to keep us in compliance and he did not.
- Requested Legal to help with a compliant resolution (for non-union employees) and took it to the Board of Trustees.
- Adjusted cash in lieu payments down to legal maximum, when I was told by legal counsel that it was appropriate.
- Collected the documents that are required by law to prove "other" coverage. This had not been done until benefit year 4/1/2016 when I started.

**Auditor of State's (AOS) Conclusion:**

Along with Ohio Rev. Code Sections 505.60(C) and 505.603 the Auditor of State considered the following Township Resolutions and Agreements.

- Resolution #08-0501-03—Authorizing the establishment of an IRS Section 125 plan for the purposes of "pre-tax" health care and other payroll benefits as appropriate.
- Resolution #09-1221-07—Options for Township Officers and Employees Who Elect Not to Participate in the Township's Health Care Plan or are Denied Coverage.
- Resolutions #13-0401-13, #15-0323-03 and #16-0321-13—Employee Health Care Program Distributions and Reimbursements.
- Liberty Township, Delaware County, Section 125 Cafeteria Plan, Adoption Agreement to take effect on January 1, 2009.
- Collective Bargaining Agreements with The International Association of Firefighters and the United Steel Workers in place throughout the period in question.

When reviewing the documents listed above there are inconsistencies in regards to whether the Township had adopted a plan for reimbursement of health care insurance premiums as allowed for in Ohio Rev. Code § 505.60 or cash payments in lieu of a benefit as allowed for in Ohio Rev. Code § 505.603(A). The actual actions taken by the Township indicates that 50% of premium cash in lieu payments were paid out through August 9, 2016. Therefore, the finding for recovery includes amounts paid in excess of 25% to individuals that were not part of a collective bargaining agreement. On August 9, 2016 Township Resolution #16-0809-01 was passed, at which time the Township took actions to reduce these payments down to 25% as required by Ohio Rev. Code § 505.603(A).

Based on Township Resolution #08-0501-03 a Premium Only Section 125 plan was established. The definition of a premium only plan is a cafeteria plan that offers as its sole benefit an election between cash (for example, salary) and payment of the employee share of the employer-provided accident and health insurance premium (excludible from the employee's gross income under section 106). Ohio Rev. Code § 505.603(A) simply states that " a board of township trustees may offer benefits to officers and employees through a cafeteria plan that meets the requirements of section 125 of the "Internal Revenue Code of 1986". Since a Premium Only Plan would fall within the general parameters established in section 125, Ohio Rev. Code Section 505.603A is applicable.

**LIBERTY TOWNSHIP  
DELAWARE COUNTY**

**SCHEDULE OF FINDINGS  
DECEMBER 31, 2015 AND 2014  
(Continued)**

**Auditor of State's (AOS) Conclusion (continued):**

Due to serving as the Township's fiscal officer, Nancy Denutte is strictly liable to account for public funds entrusted to her care. Therefore she was included in the above finding for recovery for the portion of payments made from April 1, 2016 until August 9, 2016. "Strict liability" means a person may be found liable for the loss even though he or she may not have been personally at fault. Also, any public official who either authorizes an illegal expenditure of public funds or supervises the accounts of a public office from which such illegal expenditure is made is strictly liable for the amount of such expenditure. The fiscal officer may be liable for such losses, and may therefore be included as a party liable for repaying a finding for recovery, even if they did not personally account for the transaction. The Auditor of State's Office reports this finding for recovery within this audit report and the Township's statutory legal counsel or the Ohio Attorney General's Office will pursue, collect, and institute legal action to recover the unpaid portions of the finding for recovery.

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# Dave Yost • Auditor of State

**LIBERTY TOWNSHIP**

**DELAWARE COUNTY**

## **CLERK'S CERTIFICATION**

**This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.**

*Susan Babbitt*

**CLERK OF THE BUREAU**

**CERTIFIED  
JUNE 13, 2017**