



Certified Public Accountants, A.C.

**SMITH TOWNSHIP  
MAHONING COUNTY  
Agreed-Upon Procedures  
For the Years Ended December 31, 2017 and 2016**

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# OHIO AUDITOR OF STATE KEITH FABER



January 22, 2019

The attached audit report was completed and prepared for release prior to the commencement of my term of office on January 14, 2019. Reports completed prior to that date contain the signature of my predecessor.

Ohio Auditor of State

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# Dave Yost • Auditor of State

Board of Trustees  
Smith Township  
846 North Johnson Road  
Sebring, Ohio 44672-1014

We have reviewed the *Independent Accountants' Report on Applying Agreed-Upon Procedures* of Smith Township, Mahoning County, prepared by Perry & Associates, Certified Public Accountants, A.C., for the period January 1, 2016 through December 31, 2017. Based upon this review, we have accepted this report in lieu of the audit required by Section 117.11, Revised Code. In conjunction with the work performed by the Independent Public Accountant, the Auditor of State is issuing the following:

## **Finding for Recovery – Public Money Illegally Expended**

As Smith Township's Fiscal Officer, Mary Winters was responsible for the disbursement of Township funds. Smith Township Trustees were responsible for approving Township expenditures. At least one Trustee was required to sign Township checks in addition to the Fiscal Officer.

During the period of January 1, 2008 through December 31, 2015, Smith Township issued 31 checks totaling \$241,102 made payable to the Village of Sebring for limited fire and emergency protection service. However, in accordance with the fire service contract between Smith Township and the Village of Sebring, the Township overpaid for fire services for this time period in the amount of \$48,716. Mary Winters' signature appeared on each of the checks in question resulting in the \$48,716 overpayment. In addition to Ms. Winter's signature on the checks as fiscal officer, at least two Township trustees signed the checks and would be jointly responsible with Ms. Winters for the amount of overpayments made by the checks they signed.

Following is a breakdown of the number of checks signed by the Trustees, along with the total amount of illegally expended funds from those checks (the total exceeds \$48,716 as a result of more than one trustee signing each check):

| <b>Trustee Name</b> | <b>Number of Checks Signed</b> | <b>Amt. of Illegally Expended Monies</b> |
|---------------------|--------------------------------|--|
| Valas Winters       | 12                             | \$ 23,024.90                             |
| Ralph G. Ritchie    | 20                             | \$ 37,643.03                             |
| David Mannion       | 17                             | \$ 27,848.30                             |
| Paul Freer          | 12                             | \$ 18,179.46                             |
| Terry Criss         | 6                              | \$ 5,049.38                              |

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 such illegal expenditure 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 Section 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.

In accordance with the foregoing facts and pursuant to Ohio Revised Code Section 117.28, a finding for recovery for public monies illegally expended is hereby issued in the amount of \$48,716 against Mary Winters and her bonding company, Selective Insurance Company of America, and in favor of the Smith Township Fire Fund; \$23,024 against Valas Winters and his bonding company, Ohio Plan Risk Management, Inc., and in favor of the Smith Township Fire Fund; \$37,643 against Ralph G. Ritchie and his bonding company, Ohio Plan Risk Management, Inc., and in favor of the Smith Township Fire Fund; \$27,848 against David Mannion and his bonding company, Ohio Plan Risk Management, Inc., and in favor of the Smith Township Fire Fund; \$18,179 against Paul Freer and his bonding company, Ohio Plan Risk Management, Inc., and in favor of the Smith Township Fire Fund; \$5,049 against Terry Criss and his bonding company, Ohio Plan Risk Management, Inc., and in favor of the Smith Township Fire Fund.

A Summary of the Official's Response and Auditor of State's Conclusion:

Smith Township's position statement takes exception to Auditor of State's (AOS) interpretation of the limited fire and emergency protection contract between Smith Township and the Village of Sebring.

The limited fire and emergency service contracts were reviewed in detail. In addition, the fire service invoices and accompanying run reports from the Village to the Township were reviewed and we determined the amounts charged by the Village, and paid by the Township, were not in accordance with the contract language as follows:

Emergency Vehicle/Apparatus Fee (Vehicle Fee):

Each year of the contract contained a different emergency vehicle/apparatus fee, but all included the language "XXXX DOLLARS per hour or any fraction thereof..."

The contract indicated the vehicle fee shall be charged based on fractional hours of usage but each invoiced run was charged at a minimum of one hour. Since the contract language did not explain how the fractional usage should be calculated, we took the conservative approach and a per-minute vehicle fee was calculated.

Firemen's Professional Time:

The contracts stated "*SEBRING shall invoice the TRUSTEES for firemen's professional time in accordance with the Municipal Master Wage Ordinance as adopted, or hereinafter amended.*"

Additionally the contracts stated "*SEBRING shall include in any invoice all assessments, costs and fees associated with SEBRING'S contribution to the Firemen's Pension and Indemnity Fund set forth in Chapter 46 of the Ohio Revised Code and Workmen's Compensation Fund set forth in Chapter 4123 of the Ohio Revised Code.*"

Several issues were discovered regarding how the Village had invoiced the Township for firemen's professional time. The Village calculated an average charged wage. Per the contract, the firemen's professional time should have been charged based on the Master Wage Ordinance. There was no mention in the contracts of calculating an average charged wage and the average rate was not re-calculated when the master wage ordinance was changed.

The Village charged a minimum of one hour for each fireman on a run. If the run exceeded an hour, the Village was inconsistent with how that time was charged. The contracts were silent on how much time was to be charged. There was no mention in the contract or master wage ordinance that personnel were to be paid a minimum of one hour.<sup>1</sup> Since the contract and master wage ordinance were both silent on how much time was to be charged for man hours we chose the conservative approach of charging per minute, consistent with the emergency vehicle/apparatus contract language.

Retainer:

Lastly, there were three invoices where the incorrect retainer rate was charged.

Township Response Position No. 1: The Township cites the lack of a “*finding for recovery, compliance citation, best practices recommendation or comment*” in previous audit reports as justification for the propriety of the Village’s calculation and Township’s payment of the limited fire and emergency protection contracts. The audits and agreed upon procedures conducted in 2008 through 2015 were performed to gain reasonable *not* absolute assurance over the presented financial statements. Therefore, the objectives of those engagements were significantly different than those outlined in this special audit engagement, so the same conclusions could not be expected.

The absence of findings for recovery, compliance citations, best practices recommendations, or comments in previous audit reports does not equate to approval of the implementation and payment of the limited fire and emergency protection contracts between the Village and the Township.

Township Response Position No. 2: The Township cites since the Township officials “*regularly scrutinized the billing invoices received from the village...*” as justification for AOS to reverse the illegal expenditure finding. No documentation or proof was provided to show we erred in our calculation of the illegal expenditure.

Township Response Position No. 3: The Township claims “*During the relevant audit period both Township officials and Village officials interpreted the services to be rendered under contract and the fees to be paid to the Township officials identically and as being fair to both parties.*” No documentation or proof was provided to show we erred in our calculation of the illegal expenditure.

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<sup>1</sup> There is an exception – Between 5/26/15-2/20/16, the Master Wage Ordinance states that the Fire Chief and Deputy Fire Chief shall each be guaranteed 1 hour of time.

Township Response Position No. 4: The Township further cites the absence of any notification from the Township's legal counsel, County prosecutor or Village's legal counsel regarding the interpretation of the limited fire and emergency protection contracts as justification for the reversal of the illegal expenditure finding for recovery. No documentation or proof was provided to show we erred in our calculation of the illegal expenditure.

The Township response further states:

*"...your audit should have given deference to both the Township Official's and Village of Sebring's mutual interpretation of the contract language and their years of past practice in which both the Township officials and Village officials were purely satisfied with what was being charged and what was being paid and that this arrangement was mutually beneficial to the parties during the tenure of this contract and looking forward."*

Auditor of State's Conclusion:

No documentation or proof was provided to show we erred in our calculation of the illegal expenditure.

It is relevant to note our review of the limited fire and emergency protection contracts also resulted in a finding for recovery in favor of the Village of Sebring. This finding is reported in the Village's audit report as follows:

*Smith Township contracted with the Village of Sebring for the purpose of rendering limited fire and emergency protection within Smith Township.*

*As the Fire Chief for the Village of Sebring, James Cannell was responsible for providing fire run information to the Village's billing office for runs that occurred in Smith Township. Quarterly, the Village's billing office prepared an invoice to the Township based on the information provided by Chief Cannell.*

*In addition, James Cannell also served as the Fire Inspector for Smith Township. In this capacity, he reported on the fire runs that occurred in the Township to the Township trustees. The Township approved payment to the Village for fire run service based on the information provided by James Cannell.*

*We identified 178 fire runs totaling \$111,020 that occurred in Smith Township that were withheld from the Village's billing office during the period of January 1, 2008 – March 11, 2015. Therefore, those runs were not included in the fire service invoices to the Township.*

Board of Trustees  
Smith Township  
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Our review was made in reference to the applicable sections of legislative criteria, as reflected by the Ohio Constitution, and the Revised Code, policies, procedures and guidelines of the Auditor of State, regulations and grant requirements. Smith Township is responsible for compliance with these laws and regulations.

A handwritten signature in black ink that reads "Dave Yost". The signature is written in a cursive style with a large, looping initial "D".

Dave Yost  
Auditor of State

January 10, 2019

SMITH TOWNSHIP  
MAHONING COUNTY

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## INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES

April 30, 2018

Smith Township  
Mahoning County  
846 North Johnson Road  
Sebring, OH 44672

We have performed the procedures enumerated below, which were agreed to by the Board of Trustees and the management of **Smith Township**, Mahoning County (the Township) and the Auditor of State, on the receipts, disbursements and balances recorded in the Township's cash basis accounting records for the years ended December 31, 2017 and 2016 and certain compliance requirements related to those transactions and balances, included in the information provided to us by the management of the Township. The Township is responsible for the receipts, disbursements and balances recorded in the cash basis accounting records for the years ended December 31, 2017 and 2016 and certain compliance requirements related to these transactions and balances included in the information provided to us by the Township. The sufficiency of the procedures is solely the responsibility of the parties specified in this report.

Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

This report only describes exceptions exceeding \$10.

### Cash

1. We recalculated the December 31, 2017 and December 31, 2016 bank reconciliations. We found no exceptions.
2. We agreed the January 1, 2016 beginning fund balances recorded in the Combined Statement of Receipts, Disbursements and Changes in Fund Balances to the December 31, 2015 balances in the documentation in the prior year Agreed-Upon Procedures working papers. We found no exceptions. We also agreed the January 1, 2017 beginning fund balances recorded in the Combined Statement of Receipts, Disbursements and Changes in Fund Balances to the December 31, 2016 balances in the Combined Statement of Receipts, Disbursements and Changes in Fund Balances. We found no exceptions.

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### **Cash (Continued)**

3. We agreed the totals per the bank reconciliations to the total of the December 31, 2017 and 2016 fund cash balances reported in the Combined Statement of Receipts, Disbursements and Changes in Fund Balances. The amounts agreed.
4. We confirmed the December 31, 2017 bank account balances with the Township's financial institution. We found no exceptions. We also agreed the confirmed balances to the amounts appearing in the December 31, 2017 bank reconciliation without exception.
5. We selected five reconciling debits (such as outstanding checks) haphazardly from the December 31, 2017 bank reconciliation:
  - a. We traced each debit to the subsequent January and February bank statements. We found no exceptions.
  - b. We traced the amounts and dates to the check register, to determine the debits were dated prior to December 31. There were no exceptions.

### **Property Taxes and Intergovernmental Receipts**

1. We haphazardly selected a property tax receipt from one *Statement of Semiannual Apportionment of Taxes* (the Statement) for 2017 and one from 2016:
  - a. We traced the gross receipts from the *Statement* to the amount recorded in the Revenue Ledger. We also traced the advances noted on the *Statement* to the Revenue Ledger. The amounts agreed.
  - b. We inspected the Revenue Ledger to confirm the receipt was allocated to the proper funds as required by Ohio Rev. Code Sections 5705.05-.06 and 5705.10. We found no exceptions.
  - c. We inspected the Revenue Ledger to confirm whether the receipt was recorded in the proper year. The receipt was recorded in the proper year.
2. We inspected the Revenue Ledger to determine whether it included two real estate tax receipts for 2017 and 2016. The Revenue Ledger included the proper number of tax receipts for each year.
3. We haphazardly selected five receipts from the State Distribution Transaction Lists (DTL) from 2017 and five from 2016. We also haphazardly selected five receipts from the Mahoning County Auditor's Vendor Payment Details from 2017 and five from 2016.
  - a. We compared the amount from the above reports to the amount recorded in the Revenue Ledger. The amounts agreed.
  - b. We inspected the Revenue Ledger to determine that these receipts were allocated to the proper funds. We found no exceptions.
  - c. We inspected the Revenue Ledger Report to determine whether the receipts were recorded in the proper year. We found no exceptions.

### **Debt**

1. The prior agreed-upon procedures documentation disclosed no debt outstanding as of December 31, 2015.
2. We inquired of management, and inspected the Revenue Ledger and Payment Register Detail Report for evidence of debt issued during 2017 or 2016 or debt payment activity during 2017 or 2016. There were no new debt issuances, nor any debt payment activity during 2017 or 2016.

**Payroll Cash Disbursements**

1. We haphazardly selected one payroll check for five employees from 2017 and one payroll check for five employees from 2016 from the Wage Detail Report and:
  - a. We compared the hours and pay rate, or salary recorded in the Wage Detail Report to supporting documentation (timecard, legislatively or statutorily-approved rate or salary). We found no exceptions.
  - b. We inspected the fund and account code to which the check was posted to determine the posting was reasonable based on the employees' duties as documented in employee's personnel files and/or minute record or as required by state statute. We also confirmed the payment was posted to the proper year. We found no exceptions.
  
2. We inspected the last remittance of tax and retirement withholdings for the year ended December 31, 2017 to confirm remittances were timely paid, and if the amounts paid agreed to the amounts withheld, plus the employer's share where applicable, during the final withholding period of 2017. We observed the following:

| <b>Withholding<br/>(plus employer share,<br/>where applicable)</b>                                     | <b>Date<br/>Due</b> | <b>Date<br/>Paid</b> | <b>Amount<br/>Due</b> | <b>Amount<br/>Paid</b> |
|--|---------------------|----------------------|-----------------------|------------------------|
| Federal income taxes & Medicare<br>(and social security, for employees not enrolled in pension system) | January 15, 2018    | December 22, 2017    | \$3,551.44            | \$3,551.44             |
| State income taxes   | January 15, 2018    | December 22, 2017    | \$504.59              | \$504.59               |
| OPERS retirement   | January 31, 2018    | January 9, 2018      | \$6,843.91            | \$6,843.91             |

3. We haphazardly selected and recomputed one termination payment (unused vacation, etc.) using the following information, and agreed the computation to the amount paid as recorded in the Wage Detail Report.
  - a. Accumulated leave records
  - b. The employee's pay rate in effect as of the termination date
  - c. The Township's payout policy.

The amount paid was consistent with the information recorded in a. through c. above. However, it was noted that the Township's Personnel Policies and Procedures are outdated and over the years several changes have occurred which were not clearly documented with the associated board meeting amendment. We recommend the Township update its Personnel Policies and Procedures to reflect these changes and any subsequent change be clearly documented with the associated amended date on the policy.

4. We inquired of management and inspected the Appropriation Ledger for the years ended December 31, 2017 and 2016, to determine if township employees and/or trustees were reimbursed for out-of-pocket insurance premiums. No such reimbursements occurred.

### Non-Payroll Cash Disbursements

1. We haphazardly selected ten disbursements from the Appropriation Ledger for the year ended December 31, 2017 and ten from the year ended 2016 and determined whether:
  - a. The disbursements were for a proper public purpose. We found no exceptions.
  - b. The check number, date, payee name and amount recorded on the returned, canceled check agreed to the check number, date, payee name and amount recorded in the Appropriation Ledger and to the names and amounts on the supporting invoices. We found no exceptions.
  - c. The payment was posted to a fund consistent with the restricted purpose for which the fund's cash can be used. We found no exceptions.
  - d. The fiscal officer certified disbursements requiring certification or issued a *Then and Now Certificate*, as required by Ohio Rev Code Section 5705.41(D). We found no exceptions.

### Compliance – Budgetary

1. We compared the total estimated receipts from the *Amended Official Certificate of Estimated Resources*, required by Ohio Rev. Code Section 5705.36(A)(1), to the amounts recorded in the Revenue Status Report for the General, Gasoline Tax and Police District funds for the years ended December 31, 2017 and 2016. The amounts agreed.
2. We inspected the appropriation measures adopted for 2017 and 2016 to determine whether, for the General, Gasoline Tax and Police District funds, the Trustees appropriated separately for "each office, department, and division, and within each, the amount appropriated for personal services," as is required by Ohio Rev. Code Section 5705.38(C). We found no exceptions.
3. We compared total appropriations required by Ohio Rev. Code Sections 5705.38 and 5705.40, to the amounts recorded in the Appropriation Status Report for 2017 and 2016 for the following funds: General, Gasoline Tax and Police District funds. The amounts on the appropriation resolutions agreed to the amounts recorded in the Appropriation Status Report.
4. Ohio Rev. Code Sections 5705.36(A)(5) and 5705.39 prohibits appropriations from exceeding the certified resources. We compared total appropriations to total certified resources for the General, Gasoline Tax and Police District funds for the years ended December 31, 2017 and 2016. There were no funds for which appropriations exceeded certified resources.
5. Ohio Rev. Code Section 5705.41(B) prohibits expenditures (disbursements plus certified commitments) from exceeding appropriations. We compared total expenditures to total appropriations for the years ended December 31, 2017 and 2016 for the General, Gasoline Tax and Police District funds, as recorded in the Appropriation Status Report. There were no funds for which expenditures exceeded appropriations.
6. Ohio Rev. Code Section 5705.09 requires establishing segregate funds to segregate externally-restricted resources. We inspected the Revenue Ledger for evidence of new restricted receipts requiring a new fund during December 31, 2017 and 2016. We also inquired of management regarding whether the Township received new restricted receipts. We observed no evidence of new restricted receipts for which Ohio Rev. Code Section 5705.09 would require the Township to establish a new fund.

### **Compliance – Budgetary (Continued)**

7. For funds existing in prior years, we inspected the fund activity to determine whether the fund was still being used for the statutorily approved purpose and that all the required funds were established. The Township previously established the Road Bonds Fund and Performance Bonds Fund to segregate receipts and disbursements relating to each fund's activity; however, the Township no longer has these types of receipts and disbursements. Therefore, we recommend the Township remove these two funds.
8. We inspected the 2017 and 2016 Revenue Status Reports and Appropriation Status Reports for evidence of interfund transfers exceeding \$1,000 which Ohio Rev. Code Sections 5705.14 - .16 restrict. We found no evidence of transfers these Sections prohibit, or for which Section 5705.16 would require approval by the Tax Commissioner and Court of Common Pleas.
9. We inquired of management and inspected the Appropriation Status Reports to determine whether the Township elected to establish reserve accounts permitted by Ohio Rev. Code Section 5705.13. The Township did not establish these reserves.
10. We inspected the Cash Summary by Fund Report for the years ended December 31, 2017 and 2016 for negative cash fund balances. Ohio Rev. Code Section 5705.10 (I) provides that money paid into a fund must be used for the purposes for which such fund is established. As a result, a negative fund cash balance indicates that money from one fund was used to cover the expenses of another. No funds had a negative cash fund balance.

### **Compliance – Contracts & Expenditures**

We inquired of management and inspected the Appropriation Ledger for the years ended December 31, 2017 and 2016 to determine if the township proceeded by force account (i.e. used its own employees) to maintain or repair roads (cost of project \$15,000-\$45,000) or to construct or reconstruct township roads (cost of project \$5,000-\$15,000/per mile) for which Ohio Rev. Code Section 5575.01 requires the county engineer to complete a force account project assessment form (i.e., cost estimate). We identified no projects requiring the county engineer to complete a force account cost estimate.

### **Other Compliance**

1. Ohio Rev. Code Section 117.38 requires townships to file their financial information in the HINKLE system within 60 days after the close of the fiscal year. This statute also permits the Auditor of State to extend the deadline for filing a financial report and establish terms and conditions for any such extension. Auditor of State established policies, in addition to filing extensions granted for extenuating circumstances, allow for refiling complete financial statements, as defined in AOS Bulletin 2015-007 in the Hinkle System for December 31, 2017 and 2016 fiscal year ends included in 2015-2016 or 2016-2017 agreed upon procedure engagements, subsequent to the Township's deadline where the initial filing was filed on time but incomplete. We confirmed the Township filed their complete financial statements, as defined by AOS Bulletin 2015-007 and Auditor of State established policy, within the allotted timeframe for the years ended December 31, 2017 and 2016 in the Hinkle system. There were no exceptions.

This agreed-upon procedures engagement was conducted in accordance with the American Institute of Certified Public Accountants attestation standards and applicable attestation engagement standards included in the Comptroller General of the United States' *Government Auditing Standards*. We were not engaged to, and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on the Township's receipts, disbursements, balances and compliance with certain laws and regulations. Accordingly, we do not express an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is to provide assistance in the evaluation of the Township's receipts, disbursements and balances recorded in their cash-basis accounting records for the years ended December 31, 2017 and 2016, and certain compliance requirements related to these transactions and balances and is not suitable for any other purpose.

A handwritten signature in cursive script that reads "Perry & Associates CPAs A.C.".

**Perry and Associates**  
Certified Public Accountants, A.C.  
Marietta, Ohio

# OHIO AUDITOR OF STATE KEITH FABER



**SMITH TOWNSHIP**

**MAHONING 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  
JANUARY 22, 2019**