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To: All Local Governments and Public Offices
Independent Public Accountants

From: Keith L. Faber, Auditor of State

Date: September 7, 2023

Subject: **Ohio Electricity Litigation Settlements**

The Auditor of State's Office has received inquiries from local governments receiving digital payments and debit cards related to the First Energy "[Ohio Electricity Litigation](#)" settlement.

On July 7, 2023, the United States District Court for the Southern District of Ohio entered an Order Approving Distribution of Settlement Funds in the class action lawsuit *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755. On July 31, 2023, in accordance with the Order, the administrator began distributing payments to eligible Settlement Class Members.

Pursuant to the Order, digital payments were issued via email to Settlement Class Members with payments of \$250 or less, physical Mastercards (i.e., debit cards) were sent by US Mail to Settlement Class Members without a valid email address, and all Members with payments greater than \$250 were mailed a check. The distribution was expected to be completed by the end of August.

If you received an email from rewards@reward.tremendous.com or OhioLitigationRewards@rewards.tremendous.com, it is NOT SPAM. Tremendous is the digital payment provider for this settlement.

If FirstEnergy did not have an email address for a customer's account, they mailed a physical Mastercard instead.

Local governments should beware that both digital payments and physical debit cards are highly susceptible to fraud. Should fraud occur, local governments should [report the fraud to AOS](#) and to the FBI as described in the [steps to take if you become a victim of fraud](#).

[AOS Bulletin 2018-003](#) indicates, in part, that "No political subdivision may hold or utilize a debit card account, except for law enforcement purposes. Possession or use of a debit card account by a political subdivision, except law enforcement, is a violation of [§2913.21](#) of the Ohio Revised Code. The requirements set forth in House Bill 312 do not apply to debit card accounts related to the receipt of grant moneys."

Local governments who received a digital payment but would like to receive a check instead, can

request a paper check by sending an email to claimants@tremendous.com. You will receive a response email from payments@ohioelectricitylitigation.digitalpayoutsmail.us within a few days that will offer you these options.

Local governments who have not received their digital settlement payment by email or payment in the mail by the end of August should contact Settlement Administrator at info@OhioElectricityLitigation.com or call (toll-free) 877-888-9895 and request it in the form of a physical check.

If a local government has already received a digital payment or physical Mastercard debit card, the local government should clearly document receipt amount and account for the expenditure of the settlement amount in its accounting records.

Since local governments had little control over how the settlement funds were disbursed, AOS and Independent Public Accountants will not take exception to the violation of [§2913.21](#) of the Ohio Revised Code for the receipt and use of Ohio Electricity Litigation debit cards in upcoming audits of local governments as long as the local government can adequately document receipt of the digital or physical debit card and the receipt amount, and account for the allowable expenditure(s) of the settlement funds.

Additionally, since the substance of these settlements is similar to BWC rebates, consistent with [AOS Bulletin 2020-007](#) and [AOS Bulletin 2013-007](#), we believe local governments should return the prorated portion of significant settlement amounts attributable to local, state, or federally restricted fund to those funds, where applicable. However, since most local governments can expect to receive \$250 or less in settlement payments, AOS will not take exception to local governments receipting insignificant settlement amounts in the general fund.

Thank you for your attention to this matter. If you have any questions, please contact your regional AOS office using the [Auditor of State Contacts](#) resource (ohioauditor.gov/contact.html).