

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SPECIAL COMPLIANCE REPORT

OF

JEFFERSON TOWNSHIP

ELKHART COUNTY, INDIANA

January 1, 2019 to December 31, 2020



FILED
09/22/2023

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Transmittal Letter	2
Results and Comments:	
Background.....	3
Authority for Firefighting and EMS Services.....	3-4
Bank Accounts, Annual Financial Report (AFR) Discrepancies and Omissions.....	4-7
Collections of Fees	8
Car and Clothing Allowance and Compensation for Fire Calls (Runs)	8-9
Exit Conference.....	10
Official Response	11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF JEFFERSON TOWNSHIP, ELKHART COUNTY, INDIANA

This is a special compliance report for Jefferson Township (Township), Elkhart County, for the period January 1, 2019 to December 31, 2020, and is in addition to any other report for the Township as required under Indiana Code 5-11-1. All reports pertaining to the Township may be found at www.in.gov/sboa.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with Jefferson Township (Township), the Jefferson Township Emergency Medical Service (EMS), and the Jefferson Township Fire Department (Fire Department) as the records related to payroll for the EMS and the Fire Department, reporting and bank accounts of the Township, the Fire Department, and the EMS activities. The Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

The Official Response to the Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

May 31, 2023

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS

BACKGROUND

During the Special Investigation of Jefferson Township (Township), the Jefferson Township Emergency Medical Service (EMS), and the Jefferson Township Fire Department (Fire Department), regarding the overpayment of an EMS member, certain matters of noncompliance came to our attention which are reported below.

AUTHORITY FOR FIREFIGHTING AND EMS SERVICES

Background

The Township has been providing firefighting and EMS services. Various conflicting documents and policies were provided to us during our investigation, which effectively blurred the lines as to how the Township intended to provide the services. Statements were made by the Trustee, the Fire Chief, and the EMS Director that the Fire Department and the EMS were not-for-profits.

Operation

We have determined that the Fire and the EMS services provided by the Township should have been reported and accounted for in the Township records as departments of the Township for the following reasons:

- The Trustee has established a Fire Fighting Fund and an Emergency Medical Service Fund with separate budgets and tax rates.
- The bank accounts for the Fire Department and EMS had the Township's employer identification number (EIN).
- Neither the Fire Department nor the EMS officially organized as a separate not-for-profit or for-profit organization by filing the required paperwork with the appropriate federal and state agencies including the Internal Revenue Service (IRS) and the Indiana Secretary of State.
- There is no contract between the Township and an organization that provides Fire and/or Emergency Medical Services.

Indiana Code 36-8-13-3 governs how a Township can provide for firefighting and emergency services with relevant excerpts below:

Indiana Code 36-8-13-3(a) states in part:

"The executive of a township, with the approval of the legislative body, may do the following:

- (1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. . . .

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS
(Continued)

- (4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.
- (5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with [IC 36-8-12](#).
- (6) Use money in the township's rainy day fund to pay costs attributable to providing fire protection or emergency services under this chapter."

If a Township contracts with a volunteer fire department, Indiana Code 36-8-12-4 states:

"The contract between a unit and a volunteer fire department must provide that the unit pay to the department, as consideration for the contract, an amount of money that is determined by negotiation between them. This consideration must include the amounts that the unit is required to pay under this chapter for insurance premiums and clothing, automobile, and other allowances."

BANK ACCOUNTS, ANNUAL FINANCIAL REPORT (AFR) DISCREPANCIES AND OMISSIONS

Bypassing the Trustee and Failure to Report All Funds on the Annual Financial Report (AFR)

The Fire Department and the EMS each opened and maintained separate bank accounts. The bank accounts were opened using the Township's employer identification number. Officers of the Fire Department and the EMS designated themselves as signatories on the accounts. The Trustee was not a designated signatory, did not receive the bank statements, and was not reconciling the accounts.

On a monthly basis, the Fire Chief and the EMS Director would prepare a "Monthly Treasurer Report" and provide it to the Trustee. The financial receipt activities included: collection and deposit of donations, collection and deposit charges for services, and interest earned on the bank accounts. The financial disbursement activities included: payments for services, purchases of fundraising supplies, purchases of refreshments, payments to a cable and internet service provider, and any remittances made to the Trustee.

The Trustee did not record any of the reported financial activities to the Fire Fighting Fund or the Emergency Service Fund, except for the amounts each would periodically remit to the Trustee. In 2019 and 2020, \$54,243.92 and \$52,834.54 of the EMS funds collections were remitted to the Trustee and reported in the AFR, respectively. None of the collections from the Fire Department were remitted to the Trustee in 2019 and 2020.

The following includes the total collections and disbursements for the EMS and the Fire Department during 2019 and 2020 based upon the Monthly Treasurer Reports:

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS
(Continued)

	2019	2020
Department Collections:		
EMS	\$ 103,787.83	\$ 94,621.63
Fire Department	22,711.51	25,107.93
Total Collections	\$ 126,499.34	\$ 119,729.56

	2019	2020
Department Disbursements:		
EMS	\$ 101,968.39	\$ 92,368.29
Fire Department	26,213.02	16,949.94
Total Disbursements	\$ 128,181.41	\$ 109,318.23

As of December 31, 2020, the Fire Department and the EMS ending cash and investment balances reported to the Trustee compared to the cash and investment balances to the bank account balances for the EMS and the Fire Department were as follows:

	Per Monthly Treasurer's Report	Per Bank Statement	Differences
Department:			
EMS	\$ 24,303.20	\$ 24,835.17	\$ (531.97)
Fire Department	26,382.70	26,520.70	(138.00)
Total	\$ 50,685.90	\$ 51,355.87	\$ (669.97)

Compensation

The Trustee contracted with a third-party (ADP) to process payroll. Employees entered hours through the ADP provided computer application. The ADP processed payroll and provided reports to the Trustee to review and verify. These reports included the dollar amounts to be recorded in the financial records of the Township as salaries and wages paid from each fund and department. The review performed by the Burns did not include ensuring that the Fire Department and the EMS payroll amounts by fund and department agreed to records provided by the Fire Chief and the EMS Director regarding staff assignments and locations. On November 31, 2022, Burns stated that the "reason ADP doesn't match with breakdowns is the way the employee was entered originally with ADP. The employees are entered in either the EMS dept or the Fire Dept. so, their salaries will show up in those depts."

During our investigation, we noted that some employees work both for the EMS and the Fire Department, but they were entering their time in only one department and not separating their time according to where they were scheduled or actually worked.

The amounts over and (under) reported in the Fire Fighting Fund and the Emergency Medical Service Fund based upon the ADP reports of payroll disbursements follows. Burns was unable to provide supporting documentation for the amounts the Trustee reported in each of those funds.

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS
(Continued)

Fund	2019	2020
Fire Fighting Fund	\$ 11,796.00	\$ 30,981.50
Emergency Medical Service Fund	<u>(11,796.00)</u>	<u>(30,981.50)</u>
Totals	<u>\$ -</u>	<u>\$ -</u>

Allowances and Fire Runs

Car and clothing allowances and compensation for fire runs were all reported as paid from the Fire Fighting Fund. Per the allowance worksheets provided by the EMS Director, the total of the allowances paid to the EMS members in 2019 and 2020 was \$13,450 and \$13,350, respectively. These EMS allowances were incorrectly reported as paid from the Fire Fighting Fund, further overstating the disbursements reported in the Fire Fighting Fund and understating the disbursements reported in the Emergency Medical Service Fund.

The township trustee shall present a complete report of all receipts and expenditures of the preceding calendar year, including the balance to the credit of each fund controlled by the trustee. If the trustee controls any money that is not included in a particular fund, then the trustee shall state all the facts concerning that money in the report. Some funds that are often left off the Annual Financial Report are Payroll Withholding funds, Representative Payee funds, and Small Claims Court funds. (Township Bulletin and Uniform Compliance Guidelines, November 2014)

Indiana Code 36-6-4-3 states in part:

"The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township. . . ."

Indiana Code 36-6-4-5 states:

"The executive shall maintain:

- (1) a general account showing the total of all township receipts and expenditures; and
- (2) the financial and appropriation record of the township, which must include an itemized and accurate account of the township's financial affairs."

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS
(Continued)

Indiana Code 36-6-4-6 states in part:

"(a) For each sum of money received by the executive, the financial and appropriation record must show:

- (1) the date it was received;
- (2) from whom it was received; and
- (3) to what account it was credited.

(b) For each sum of money paid by the executive, the financial and appropriation record must show:

- (1) the date it was paid;
- (2) to whom it was paid;
- (3) from what account it was paid; and
- (4) why it was paid. . . ."

Indiana Code 36-8-13-4 states in part:

"(a) Each township shall annually establish a township firefighting fund which is to be used by the township for the payment of costs attributable to providing fire protection or emergency services under the methods prescribed in section 3 of this chapter and for no other purposes. The money in the fund may be paid out by the township executive with the consent of the township legislative body.

(b) Each township may levy, for each year, a tax for the township firefighting fund. Other than a township providing fire protection or emergency services or both to municipalities in the township under section 3(b) or 3(c) of this chapter, the tax levy is on all taxable real and personal property in the township outside the corporate boundaries of municipalities. Subject to the levy limitations contained in [IC 6-1.1-18.5](#), the township levy is to be in an amount sufficient to pay costs attributable to fire protection and emergency services that are not paid from other revenues available to the fund. The tax rate and levy shall be established in accordance with the procedures set forth in [IC 6-1.1-17](#).

(c) In addition to the tax levy and service charges received under [IC 36-8-12-13](#) and [IC 36-8-12-16](#), the executive may accept donations to the township for the purpose of firefighting and other emergency services and shall place them in the fund, keeping an accurate record of the sums received. A person may also donate partial payment of any purchase of firefighting or other emergency services equipment made by the township. . . ."

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS
(Continued)

COLLECTION OF FEES

The Fire and the EMS Departments were collecting various fees. The Fire Department billed and collected fees for fire calls as well as for the filling of swimming pools. The EMS collected fees through the use of a billing and claim services agency for ambulance runs. A resolution was not presented to support how the fees were established. As departments of the Township, the Township Board would have the responsibility for adopting resolutions to establish the fees and amounts to be billed and collected. The Trustee would be responsible for billing and collecting the fees and/or entering into agreements with billing and collection agencies.

Indiana Code 36-6-4-8(d) states: "The township legislative body may adopt a resolution to provide for the imposition and collection of fees for ambulance services provided by the township police or fire department."

Fees can only be collected as specifically authorized by law or properly authorized ordinance/resolution. When a fee is NOT specified by law, but instead through the use of an ordinance/resolution, sufficient authoritative reference should be maintained. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

Indiana Code 36-6-4-3 states in part:

"The executive shall do the following: . . .

- (2) Manage all township property interest. . . .
- (5) Receive and pay out township funds. . . ."

CAR AND CLOTHING ALLOWANCE AND COMPENSATION FOR FIRE CALLS (RUNS)

Twice a year, July and December, members of the EMS received a car and clothing allowance paid by the Trustee based upon worksheets prepared by the EMS Director. The EMS Director would submit a worksheet to the Trustee that included the EMS members' names, the dates of "hire," the end of service dates, the lengths of service and the dollar amounts of the allowance each should receive. In 2019 and 2020, the car and clothing allowances pay ranged from \$75 to \$450 each July and December.

Per an interview with Fire Chief Swank on December 5, 2022, members of the Fire Department received a car and clothing allowance as well as fire call or "run" money. Once a year in December, the Trustee would pay the members based upon calculations made by the Fire Chief per a worksheet that included each member's name, "Fire Runs Made," "Runs with EMS/Daytime," the dollar amounts for the runs, and the car and clothing allowances. In 2019 and 2020, the amounts paid for runs ranged from \$12 to \$624, and the car and clothing allowances pay ranged from \$50 to \$300. (The Fire Chief prorated amounts based upon fire run percentages and service dates of the members.)

Amounts paid for the car and clothing allowances and the fire calls were not included in the Salary Resolutions. Furthermore, the amounts paid for the fire calls were not addressed in any of the agreements including the Fire Bylaws, EMS Bylaws, or Employee Handbook. The only mention of amounts for fire calls was per the December 23, 2021, Special Board Meeting held for approval of a resolution to correct minutes dated September 9, 2020. This was a resolution approving fire run compensation and ratifying prior firefighter compensation. The resolution retroactively approved the fire run compensation at \$6 per run and increased it to \$10 per run beginning September 9, 2020. This resolution did not address prorating any compensation based upon service dates or percentages of fire runs. Furthermore, amounts paid in December 2020 were still based upon the \$6 per run rate.

JEFFERSON TOWNSHIP, ELKHART COUNTY
RESULTS AND COMMENTS
(Continued)

The compensation for the allowances and fire calls was not processed through the township payroll system and the compensation was not reported to the Internal Revenue Service or to the Indiana Department of Revenue on either a Wage and Tax Statement Form W-2, or on a Miscellaneous Income Form 1099.

The Employee Handbook stated in part: "The clothing allowance begins on January 1st of each year and will commence, for new employees, the first calendar year following the completion of six (6) months of service. Full-time employees will receive up to \$250 per calendar year and part-time employees will receive up to \$125 per calendar year. Any article of clothing that adheres to the dress code may be purchased by the employee and the receipt shall be turned into the Township Trustee for reimbursement."

Township Board minutes from August 27, 2002, stated the following: "Car/clothing allowance will increase to 900.00 per year for the EMS. The Volunteer Firemen will also receive a 100.00 increase to their C.C. Allowance."

It was unclear as to what the allowance(s) should have been and whether the EMS and the Fire Department members were being paid the correct rate as the Employee Handbook was not dated and August 27, 2002, Township Board minutes only noted increases.

Units are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings, court decisions, and filing requirements concerning reports and other procedural matters of federal and state agencies. Units must file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Township, Chapter 1)

Each unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution, or salary schedule adopted by the governing body unless otherwise authorized by law. Compensation must be paid in a manner that will facilitate compliance with state and federal reporting requirement. (Accounting and Uniform Compliance Guidelines Manual for Township, Chapter 1)

JEFFERSON TOWNSHIP, ELKHART COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 24, 2023, with James Weldy, Trustee; Elizabeth Burns, Township Clerk; and Debbie Johnson, Township Board member.

Jefferson Township Elkhart County
Jim Weldy Trustee)

OFFICIAL RESPONSE

Date: August 31, 2023

Indiana State Board of Accounts
302 West Washington St. Room E418
Indianapolis, IN 46204-2765

Re: Compliance report

The issues addressed in this report have been corrected moving forward.

Jim Weldy
Jefferson Township Trustee