

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

WARREN TOWNSHIP

MARION COUNTY, INDIANA

January 1, 2012 to December 31, 2016



**FILED**  
09/08/2017



## TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
Schedule of Officials .....	2
Transmittal Letter .....	3
Trustee:	
Examination Results and Comments:	
Bank Account Reconciliations.....	6
Stale Dated Outstanding Checks.....	6-7
Advance Payments .....	7
Overdrawn Cash Balances .....	7
Certified Report of Compensation of Officers and Employees .....	7-8
Annual Nepotism Certification.....	8
Annual Contracting Certification .....	8
Official Response.....	9-14
Exit Conference .....	15
Small Claims Court:	
Examination Result and Comment:	
Clerk's Trust Items over Five Years Old .....	18
Exit Conference .....	19

SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Trustee	Jeffrey D. Bennett Vernon A. Brown	01-01-11 to 12-31-14 01-01-15 to 12-31-18
Chairman of the Township Board	William Klepper	01-01-12 to 12-31-17



**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](http://www.in.gov/sboa)

TO: THE OFFICIALS OF WARREN TOWNSHIP, MARION COUNTY, INDIANA

This report is supplemental to our examination report of Warren Township (Township), Marion County, for the period from January 1, 2012 to December 31, 2016. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the Township. It should be read in conjunction with our Financial Statements Examination Report of the Township, which provides our opinion on the Township's financial statements. This report may be found at [www.in.gov/sboa](http://www.in.gov/sboa).

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Examination 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.

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

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

July 6, 2017

(This page intentionally left blank.)

TRUSTEE  
WARREN TOWNSHIP, MARION COUNTY

TRUSTEE  
WARREN TOWNSHIP, MARION COUNTY  
EXAMINATION RESULTS AND COMMENTS

**BANK ACCOUNT RECONCILIATIONS**

Depository reconciliations of the fund balances to the bank account balances were conducted; however, a detailed listing of deposits in transit was not consistently provided for 2013, 2014, and 2015.

Furthermore, the Township did not establish a sufficient internal controls system or mitigating controls over the bank reconciling process.

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

**STALE DATED OUTSTANDING CHECKS**

The bank reconciliation as of December 31, 2016, included checks outstanding in excess of two years.

Indiana Code 5-11-10.5-2 states in part: "All warrants or checks drawn upon public funds of a political subdivision that are outstanding and unpaid for a period of two (2) or more years as of the last day of December of each year are void. . . ."

Indiana Code 5-11-10.5-3 states:

"Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in triplicate of all warrants or checks that have been outstanding for a period of two (2) or more years as of December 31 of the preceding year. The original copy of each list shall be filed with the:

TRUSTEE  
WARREN TOWNSHIP, MARION COUNTY  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

- (1) board of finance of the political subdivision; or
- (2) fiscal body of a city or town.

The duplicate copy shall be transmitted to the disbursing officer of the political subdivision. The triplicate copy of each list shall be filed in the office of the treasurer of the political subdivision. If the treasurer serves also as the disbursing officer of the political subdivision, only two (2) copies of each list need be prepared or caused to be prepared by the treasurer."

Indiana Code 5-11-10.5-5 states:

"(a) Upon the preparation and transmission of the copies of the list of the outstanding warrants or checks, the treasurer of the political subdivision shall enter the amounts so listed as a receipt into the fund or funds from which they were originally drawn and shall also remove the warrants or checks from the record of outstanding warrants or checks.

(b) If the disbursing officer does not serve also as treasurer of the political subdivision, the disbursing officer shall also enter the amounts so listed as a receipt into the fund or funds from which the warrants or checks were originally drawn. If the fund from which the warrant or check was originally drawn is not in existence, or cannot be ascertained, the amount of the outstanding warrant or check shall be receipted into the general fund of the political subdivision."

***ADVANCE PAYMENTS***

The Township paid \$2,651 of compensation to a Township Board member in advance of the actual date the services were provided.

Compensation and any other payments for goods and services must not be paid in advance of receipt of the goods or services unless specifically authorized by law. Payments made for goods or services which are not received may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

***OVERDRAWN CASH BALANCES***

The PAYROLL DEDUCTIONS fund had overdrawn cash balances of \$249 and \$5,372 at December 31, 2012 and 2014, respectively.

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the unit. (Accounting and Uniform Compliance Guidelines Manual for Townships, Chapter 1)

***CERTIFIED REPORT OF COMPENSATION OF OFFICERS AND EMPLOYEES***

The Certified Report of Names, Addresses, Duties and Compensation of Officers and Public Employees (Form 100-R) was inaccurate for 2012, 2013, 2014, 2015, and 2016. The Form 100-R did not include information for the Township Constable.

TRUSTEE  
WARREN TOWNSHIP, MARION COUNTY  
EXAMINATION RESULTS AND COMMENTS  
(Continued)

Indiana Code 5-11-13-1(a) states in part:

"Every . . . township . . . shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents . . . and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. . . ."

***ANNUAL NEPOTISM CERTIFICATION***

The elected officials did not file an annual certification of compliance with the nepotism law with the unit executive for years 2012, 2013, and 2014.

Indiana Code 36-1-20.2-16 states: "Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year."

***ANNUAL CONTRACTING CERTIFICATION***

The elected officials did not file an annual certification of compliance with the contracting law with the unit executive for years 2012, 2013, and 2014.

Indiana Code 36-1-21-6 states: "Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year."

July 19, 2017

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

Re: OFFICIAL RESPONSE

To Whom It May Concern:

Thank you for the opportunity to respond to the State Board of Accounts audit examination for Warren Township of Marion County for the years 2012 to 2016. I am grateful to Trustee Vernon Brown for his leadership over the past two years and for his invitation to participate in the exit conference.

During my time in office, three regular SBOA audits covering the years 2007 to 2011 provided us with valuable, biennial feedback making our township's operation more effective. Although my term in office ended December 31, 2014, three of the five years examined in this audit correspond to my time in office. In addition to the lengthy period between SBOA examinations and the transition of township administrations, which by nature make audits more complex, the township's long-time chief financial officer passed away unexpectedly in September 2015. Despite these complicating factors, it is gratifying, reassuring, and no surprise that all financial accounts reconciled.

With regard to the examination results and comments, it is likely that the late, former CFO would have been able to clarify comments related to bank account reconciliations and anti-nepotism and contracting certifications. Pursuant to the latter, the township adopted strict anti-nepotism and contracting measures well in advance of the state's requirement to do so. The township engaged in no instances of nepotism in hiring and no violations of the contracting policy. Other audit comments are addressed individually below.

#### **Advance Payments**

Township board members, as elected officials, are employees of the township for the purposes of social security withholding. However, there is no attendance policy for Warren Township board members, unlike other townships that directly tie board member pay to board meeting attendance. The board member in question served out their term of office without incident.

#### **Overdrawn Cash Balances**

The Payroll Deduction fund is a pass-through fund used by the township's third-party payroll vendor to withdraw funds used to pay for employee deductions, including payroll taxes. It is not

uncommon for the fund to show a negative balance at year-end, due to the timing of pay periods, dates of withdrawals by the third-party vendor, and availability of the next year's fiscal appropriation. In past audits, the payroll fund showing a negative balance has never been an exit conference discussion issue, let alone an audit comment.

In 2014, the township's payroll vendor withdrew payroll deductions on December 31, 2014 (a Wednesday) for the pay period ending Friday, January 2, 2015—throwing the township's 2014 year-end fund balance into the negative for what was essentially a 2015 expense. Presumably this was done because the vendor's offices were closed for a long weekend at the New Year's holiday. The township transferred funds into the payroll deduction fund on January 2, 2015, as the 2015 annual appropriation was available beginning January 1. The audit comment that this "could be an indicator of serious financial problems" is an overstatement. This was a matter of timing that could have been verified with a quick look at the December 2014 bank statement. Please see the attached statement from Rosy Oshry, township financial advisor, for further detail.

### **Certified Report of Compensation of Officers and Employees**

The township constable is compensated on a fee-for-service basis and has long been considered an employee of the township only for the purposes of social security withholding. For that reason, the township constable historically has not been included on the Form 100-R; this, too, was never a discussion issue in three prior audits.

The audit's inference that the status of "employee" (and, therefore, requirement for inclusion on the Form 100-R) is proven because the township issues a W-2 to the constable belies the complexity of this issue. Township files document at least 35 years of uncertainty regarding the relationship between the township and the constable, with the state weighing in from time to time. I have included a short memorandum, from those files, between the Public Employees' Retirement Fund and the State Board of Accounts in 1982 that considers constables "independent contractors and not employees of the township." The memorandum further describes an "an unusual relationship to the township, being township constable, elected official, yet not considered a township employee."

A change in the relationship between the township and constable could have an impact on taxpayers that should not be taken lightly. In Warren Township, the constable has routinely sought to be considered an employee of the township—primarily out of a desire to receive taxpayer-funded health benefits—but those repeated requests were denied based on our understanding of the state's past instruction. All Marion County townships would benefit from definitive guidance from the state on this matter. In the meantime, it is my understanding from Trustee Brown that the Form 100-R now reflects annual fees collected by the constable.

I am thankful that the State Board of Accounts has returned to regular audit examinations of local units of government, and I appreciate this opportunity to reflect and comment on the Warren Township audit. It was my tremendous privilege to serve as Trustee for eight years and work in partnership with SBOA over that time to provide accountability and transparency to township residents and taxpayers.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Bennett". The signature is written in a cursive style with a large, stylized initial "J".

Jeff Bennett

cc: Trustee Vernon Brown  
Judge Garland Graves  
Freedom Smith, Ice Miller LLP  
Rosy Oshry, O.W. Krohn & Associates LLP

Thank you for the opportunity to submit an official response for inclusion in the audit of Warren Township, Marion County, for the periods beginning January 1, 2012 and ending December 31, 2016. The contents of the audit report were discussed during the exit conference held on July 14, 2017 with Field Examiner, Eugene West.

I would like to address the comment regarding the overdrawn cash balance of the payroll deduction fund in the amount of \$5,371.31 at December 31, 2014. The last pay date for 2014 was on December 19, 2014; however, on December 31, 2014, our payroll processing company withdrew the payroll taxes, in the amount of \$7,176.31 from our bank account, for the January 2, 2015 pay date. Warren Township uses the cash method for accounting transactions, receipts are posted when received and disbursements are posted when paid. In the bank reconciliation process for December 31, 2014, the former Chief Financial Officer posted the withdrawal of the payroll taxes to the accounting system. The funding of the payroll deduction fund for these taxes was not done until January 2, 2015 to correspond with the 2015 budget year appropriations. Consequently, the cash deficit recorded in the payroll deduction fund was a payroll timing issue and not an oversight.

*State of Indiana*  
PUBLIC EMPLOYEES' RETIREMENT FUND  
STATE AGENCY FOR SOCIAL SECURITY

Suite 501 Harrison Building

143 West Market Street

Indianapolis, Indiana 46204

Phone 232-1617

Memorandum

*From:* Burton L. Garten  
Administrative Assistant

*Date* ~~April 28, 1982~~  
*To:* Richard Frost  
Warren Civil Township  
69032-1884

Mr. Lizama referred to me your question on township constables. Last fall I contacted Mr. James Brannon, Supervisor of Courts and Townships for the State Board of Accounts about the township constable in Lawrence Township. He advised me that they were considered independent contractors and not employees of the township. As I recall, he said they were in an unusual relationship to the township, being township constable, elected official, yet not considered a township employee.

If I can help you further, please let me know.

July 24, 2017

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

***Re: Warren Township Trustee – Submission and Response to Audit***

To Whom It May Concern:

This letter is being sent on behalf of our client Trustee Vernon Brown of Warren Township of Marion County (the "Township") with regard to the State Board of Accounts ("SBOA") audit of the Township for the years 2012-2016. In particular, this letter confirms that Trustee Brown and his staff worked with former Township Trustee Jeff Bennet in compiling the information submitted by former Trustee Bennet in response to the SBOA's audit. Trustee Brown further notes that as referenced in the materials submitted by former Trustee Bennet, the Warren Township Constable is compensated on a fee-basis and has never been considered an employee of the Township based on the State's past instruction that township constables were not township employees. The Township has merely assisted the Constable with social security withholdings and documented this via a W-2.

The SBOA in the audit requested inclusion of the Constable on the Township's Form 100-R. Trustee Brown is happy to comply with relevant requirements, but asks that if the SBOA's request is merely for tracking purposes or for another reason that the SBOA provide the Trustee with definitive guidance on this matter that includes applicable statutes and laws supporting the stated position. Materials setting out why the Constables needs to be on the Form 100-R, and the law supporting that determination, will need to be given to the Constable if and when he protests the requested new reporting requirements.

Respectfully,

ICE MILLER LLP



Freedom S.N. Smith

FSNS/hmsm

cc: Lisa David (via e-mail only)

\\12179584.1

TRUSTEE  
WARREN TOWNSHIP, MARION COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on July 14, 2017, with Vernon A. Brown, Trustee; William Klepper, Chairman of the Township Board; Lelois Steele, Chief Financial Officer; Freedom Smith, Attorney; Honorable Garland Graves, Judge; and Jeffrey D. Bennett, former Trustee.

(This page intentionally left blank.)

SMALL CLAIMS COURT  
WARREN TOWNSHIP, MARION COUNTY

SMALL CLAIMS COURT  
WARREN TOWNSHIP, MARION COUNTY  
EXAMINATION RESULTS AND COMMENT

**CLERK'S TRUST ITEMS OVER FIVE YEARS OLD**

Our review of trust items on hand revealed that many items had been on hand for a period of five years or longer.

Indiana Code 32-34-1-20(c) states in part:

"Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times: . . .

- (6) For property or proceeds held by a court or a court clerk, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3. . . ."

Indiana Code 32-34-1-26(a) states:

"A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property. Items of value of less than fifty dollars (\$50) may be reported by the holder in the aggregate."

Indiana Code 32-34-1-27(a) states: "Except as provided in subsections (b) and (c), on the date a report is filed under section 26 of this chapter, the holder shall pay or deliver to the attorney general the property that is described in the report as unclaimed."

SMALL CLAIMS COURT  
WARREN TOWNSHIP, MARION COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on July 14, 2017, with Honorable Garland Graves, Judge; Vernon A. Brown, Trustee; William Klepper, Chairman of the Township Board; Lelois Steele, Chief Financial Officer; Freedom Smith, Attorney; and Jeffrey D. Bennett, former Trustee.