



OHIO AUDITOR OF STATE  
**KEITH FABER**





# OHIO AUDITOR OF STATE KEITH FABER



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## BASIC AUDIT REPORT

Village of Empire  
Jefferson County  
151 Nessley Street  
PO Box 307  
Empire, Ohio 43926

We have completed certain procedures in accordance with Ohio Rev. Code Section 117.01(G) to the accounting records and related documents of the Village of Empire, Jefferson County, (the Village) for the years ended December 31, 2023 and 2022.

Our procedures were designed solely to satisfy the audit requirements of Ohio Rev. Code Section 117.11(A). Because our procedures were not designed to opine on the Village's financial statements, we did not follow *generally accepted auditing standards*. We do not provide any assurance on the Village's financial statements, transactions or balances for the years ended December 31, 2023 and 2022.

The Village's management is responsible for preparing and maintaining its accounting records and related documents. Our responsibility under Ohio Rev. Code Section 117.11(A) is to examine, analyze and inspect these records and documents.

Based on the results of our procedures, we found the following significant compliance or accounting issues to report.

### Current Year Observations

1. **Ohio Rev. Code § 117.38** states, in part, that 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. The report shall be certified by the proper officer or board and filed with the auditor of state within 60 days after the close of the fiscal year, except that public offices reporting pursuant to generally accepted accounting principles shall file their reports within 150 days after the close of the fiscal year. The Auditor of State may extend the deadline for filing a financial report and establish terms and conditions for any such extension.

The Village's December 31, 2023 annual financial report due by February 29, 2024 was not filed with the Auditor of State until August 7, 2024. Failure to file a complete report by the established deadline, without an extension, could result in the assessment of penalties against the Village.

The Village should implement procedures to verify its annual financial report is filed with the Auditor of State by the required deadline. If the Village is unable to meet the deadline, the Village should file an extension request through the Auditor of State.

2. **Ohio Rev. Code § 149.43(E)(2)** provides that every public office must have a policy in place for responding to public records requests. Generally, a public records policy cannot: (1) limit the number of public records the office will make available to a single person; (2) limit the number of public records the office will make available during a fixed period of time; and (3) establish a fixed period of time before the office will respond to a request for inspection/copying of public records unless that period is less than eight hours. However, pursuant to Ohio Rev. Code § 149.43(B)(7)(c), the policy may limit the number of public records the public office will physically deliver by U.S. Mail or other delivery service to ten per month unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. "Commercial" is narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

**Ohio Rev. Code § 149.43(E)(2)** further requires all public offices take certain actions with regard to their public record policy. Public offices must distribute their Public Records Policy to the employee who is the records custodian/manager or otherwise has custody of the records of that office and have that employee acknowledge receipt of the Public Records Policy; create and display in a conspicuous place in all locations where the public office has branch offices a poster describing the public records policy; and, if the public office has a manual or handbook of its general policies and procedures for all employees, include the public records policy in that manual or handbook.

The Village has no formal written policy that would demonstrate compliance with the Ohio Revised Code. This could result in records requests not being fulfilled in accordance with Ohio law.

The Village shall establish a public records policy. The policy shall be distributed to the records custodian/manager and the Village should have a written acknowledgement of receipt from the records custodian/manager. In addition, a poster describing the public records policy must be conspicuously displayed in all of the Village's branch offices and the public records policy must be included in policy manuals or handbooks if any exist.

Pursuant to Ohio Rev. Code § 109.43(E)(2), the Ohio Attorney General has developed and provided to all public offices a model public records policy for responding to public records requests. The policy, which is available at <https://www.ohioattorneygeneral.gov/Files/Government-Entities/Model-Public-Records-Policy.aspx>, provides guidance to public offices in developing their own policies for responding to public records requests in compliance with the Public Records Act.

3. **Ohio Rev. Code §§ 109.43(B) and 149.43(E)(1)** require all state and local elected officials, or their designees, to attend 3 hours of training on Ohio's Public Records and Open Meetings Laws during each term of office. The training received must be certified by the Ohio Attorney General.

All three of the Village's elected officials with terms ending in 2023, did not, during their term of office, attend a required Certified Training or have an appropriate designee attend the training as required by Ohio Rev. Code §§ 109.43(B) and 149.43(E)(1), due to deficiencies in internal controls over public record laws training procedures and monitoring. This could result in improper education of public offices regarding the offices' duties related to public records requests as well as improper withholding of information from stakeholders.

The elected officials, or their designee(s), should, during their term of office, attend public records training and maintain proof of completion of the training.

4. The official council minutes of the Village should be prepared timely and accurately, be made available to the public, and signed by the appropriate officials to indicate the minute records are accurate and complete.

The Council minutes for the Village during the audit period were not signed by the Fiscal Officer.

The Village should implement procedures to ensure minutes are properly signed by the appropriate officials.

#### **Current Status of Matters Reported in our Prior Engagement**

5. In addition to the issues reported in items 2, 3, and 4 above, our prior basic audit report for the years ended December 31, 2021 and 2020 included issues for the Village not having a records retention schedule implemented, budgetary appropriations exceeding estimated resources, expenditures exceeding budgetary appropriations, stale dated checks being carried on the bank reconciliation, and late remittance of federal tax withholdings. The Village has corrected these issues.



Keith Faber  
Auditor of State  
Columbus, Ohio

September 17, 2024

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# OHIO AUDITOR OF STATE KEITH FABER



**VILLAGE OF EMPIRE**

**JEFFERSON COUNTY**

## **AUDITOR OF STATE OF OHIO CERTIFICATION**

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



**Certified for Release 10/1/2024**

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This report is a matter of public record and is available online at  
[www.ohioauditor.gov](http://www.ohioauditor.gov)