

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

AUDIT REPORT

OF

HEALTH DEPARTMENT

FLOYD COUNTY, INDIANA

January 1, 2008 to December 31, 2008



**FILED**

09/18/2009



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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Health Officer	Thomas M. Harris, M.D.	01-01-08 to 12-31-09
Chairman of the Board of Health	Edward J. Cook, Jr.	01-01-08 to 12-31-09
President of the County Council	Larry McAllister Ted Heavrin	01-01-08 to 12-31-08 01-01-09 to 12-31-09
President of the Board of County Commissioners	Stephen A. Bush	01-01-08 to 12-31-09



**STATE OF INDIANA**  
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TO: THE OFFICIALS OF FLOYD COUNTY

We have audited the records of the Health Department for the period from January 1, 2008 to December 31, 2008, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Result and Comment. The financial transactions of this office are reflected in the Annual Report of Floyd County for the year 2008.

STATE BOARD OF ACCOUNTS

August 8, 2009

HEALTH DEPARTMENT  
FLOYD COUNTY  
AUDIT RESULT AND COMMENT

HEALTH DEPARTMENT ATTORNEY

The Floyd County Board of Health was not involved in any lawsuits or pending litigation, yet they entered into a contract with an attorney to represent the Health Department. The contract specifies the attorney will be paid a retainer fee of \$200 monthly, for a total of \$2,400 per year. The Attorney representing the County of the health jurisdiction is to represent the Health Department for enforcement orders in the court system, unless the County executive employs other legal counsel or there is a referral to the prosecuting attorney. The County Commissioners had not approved this contract for 2008. Further, documentation was not presented that evidenced in what capacity the attorney represented the Health Department; such as giving numbers of hours worked and what projects were worked on. Requiring benchmarks not only enables the officials to determine whether or not the contract is being fulfilled but also gives the officials a basis to make determinations on requirements for future contracts.

IC 16-20-1-8(a) states:

"(a) The board of each local health department may enter into contract with the state department, other local boards of health, other units of government, a private individual, or a corporation for the provision of health services within the board's jurisdiction. The private contracts are subject to approval of the county executive or city executive."

(b) A local board of health, a county executive, or a city fiscal body may contract with or purchase from any individual, organization, limited liability company, partnership, or corporation planning services considered essential to the development of an effective community health program."

IC 16-20-1-25(c) states in part:

". . . the attorney representing the county of the health jurisdiction where the offense occurs shall, upon receiving the information from the health officer, institute proceedings in the courts for enforcement. . . ."

IC 16-20-1-26(b) states:

"The county attorney in which a local board of health or local health officer has jurisdiction shall represent the local health board and local health officer in the action unless the county executive employs other legal counsel or the matter has been referred through law enforcement authorities to the prosecuting attorney."

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines for Counties of Indiana, Chapter 1)

HEALTH DEPARTMENT  
FLOYD COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on July 13, 2009, with Thomas M. Harris, M.D., Health Officer; and Edward J. Cook, Jr., Chairman of the Board of Health. The official response has been made a part of this report and may be found on pages 6 and 7.

The contents of this report were discussed on August 3, 2009, with Teresa A. Plaiss, Auditor; Stephen A. Bush, President of the Board of County Commissioners; and Ted Heavrin, President of the County Council.

# FIFER LAW OFFICE

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July 29, 2009

State Board of Accounts  
302 West Washington Street  
Room E 418  
Indianapolis, IN 46204-2765

Re: Floyd County Health Department Audit

## **OFFICIAL RESPONSE**

Dear Sir or Madam:

Please accept this letter as the Floyd County Health Department's Official Response to the Audit Result and Comment related to the hiring of general counsel for the Floyd County Health Department. The Audit Result and Comment states that the Floyd County Health Department does not have the authority to hire general counsel. The Floyd County Health Department specifically disputes and disagrees with this finding.

First and foremost, there is no statute prohibiting a local health department from retaining general counsel. Pursuant to I.C. 16-20-1-8(a), "Local health officers may appoint and employ public health nurses, environmental health specialists, computer programmers, clerks, other personnel, and an administrator of public health, subject to the confirmation of the local board of health, as is necessary and reasonable to carry out and perform the duties of the local health department." This provision of the statute specifically permits the local health officer to hire "other personnel" as reasonably necessary to carry out the duties of the local health department. It is reasonably necessary for the board of the Floyd County Health Department to hire general counsel to advise the board on the application and interpretation of local ordinances, state statutes, administrative regulations, labor and personnel issues, and other matters.

Furthermore, the statutory provisions cited in the Audit Result and Comment are inapplicable to the issue of a local health department retaining general counsel. Both I.C. 16-1-20-25(c) and I.C. 16-1-20-26(b) apply only to actions brought by a local health department for enforcement of local ordinances. Indiana Code section 16-20-1-26(b) specifically allows the county executive to employ counsel other than the county attorney to prosecute such enforcement actions. The Floyd County Health Department has followed this procedure in the past and obtained the approval of

the Floyd County Commissioners to hire counsel other than the county attorney to prosecute its enforcement actions.

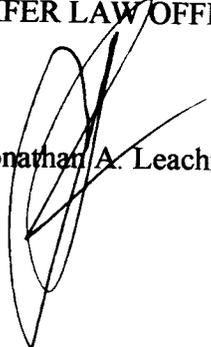
Finally, in accordance with I.C. 16-1-20-8(b), "A local board of health, a county executive, or a city fiscal body may contract with or purchase from any individual, organization, limited liability company, partnership, or corporation planning services considered essential to the development of an effective community health program." The Floyd County Health Department's contract with its general counsel is essential to the development of an effective community health department. The Floyd County Health Department has also had its contract for the retention of general counsel approved by the Floyd County Commissioners.

The Floyd County Health Department specifically requests that the State Board of Accounts delete the aforementioned Audit Result and Comment from its report. In the alternative, the Floyd County Health Department requests that this Official Response be included with and made a part of the State Board of Accounts Audit Report.

Thank you for your attention to this matter.

Sincerely yours,

FIFER LAW OFFICE

  
Jonathan A. Leachman

cc: Floyd County Health Department