

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

AUDIT REPORT
OF
BOARD OF COUNTY COMMISSIONERS
PORTER COUNTY, INDIANA
January 1, 2011 to December 31, 2011



FILED
09/17/2012

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Auditor	Robert Wichlinski	01-01-11 to 12-31-14
Treasurer	Michael Bucko	01-01-10 to 12-31-13
President of the County Council	Daniel Whitten	01-01-11 to 12-31-12
President of the Board of County Commissioners	John Evans	01-01-11 to 12-31-12



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF PORTER COUNTY

We have audited the records of the Board of County Commissioners for the period from January 1, 2011 to December 31, 2011, 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 Results and Comments. The financial transactions of this office are reflected in the Annual Report of Porter County for the year 2011.

STATE BOARD OF ACCOUNTS

August 9, 2012

BOARD OF COUNTY COMMISSIONERS
PORTER COUNTY
AUDIT RESULTS AND COMMENTS

E-911 FEES COMINGLED INTO ONE FUND

As stated in the prior audit report, the county receives money from phone companies for landline and wireless phone fees charged to consumers. These fees are to be deposited in separate funds on the County's records. These fees were all deposited in the same fund, Enhanced Access Fund, and were not separated as required by Indiana statute. In addition, Indiana Code 36-8-16-14 and Indiana Code 36-8-16.5-41 indicate that specific disbursements can be made from landline fees and wireless fees. With all money comingled into one fund and disbursed from the same fund, we were unable to determine if disbursements were in compliance with the appropriate statutes for each fee type.

Indiana Code 36-8-16-13 states:

"Deposit of fees into emergency telephone system fund, Sec. 13. A county treasurer or municipal fiscal officer to whom enhanced emergency telephone system fees are remitted under section 12 of this chapter shall deposit the fees in a separate fund. The fund shall be known as the Porter County emergency telephone system fund. The county treasurer or municipal fiscal officer may invest money in the fund in the same manner that other money of the county or municipality may be invested. The county treasurer or municipal fiscal officer shall deposit any income earned from such an investment in the fund."

Indiana Code 36-8-16-14 (a) states:

"The emergency telephone system fees shall be used only to pay for:

- (1) except as provided in subsection (c), the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system;
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and
- (5) an emergency telephone notification system under IC 36-8-21.

The legislative body of the unit may appropriate money in the fund only for such an expenditure."

Indiana Code 36-8-16.5-41 (a) states:

"A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or

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(Continued)

- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service."

Indiana Code 36-8-16.5-43 states:

"The distribution of wireless emergency enhanced 911 funds by the board for cost recovery by PSAPs under section 39 of this chapter must be deposited by the county treasurer in a separate fund set aside for the purposes allowed by section 41 of this chapter. The fund must be known as the Porter County wireless emergency telephone system fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this section."

QUESTIONABLE EXPENDITURES E-911

As stated in the prior audit report, there were E-911 disbursements found that are considered to be questionable expenditures based on the state guidelines for the following items in 2011:

1. Office Supplies
2. Furniture (lockers for dispatchers)

Indiana Code 36-8-16-14 (a) states:

"The emergency telephone system fees shall be used only to pay for:

- (1) the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system;
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and
- (5) an emergency telephone notification system under IC 36-8-21.

The legislative body of the unit may appropriate money in the fund only for such an expenditure."

Indiana Code 36-8-16.5-41 (a) states:

"A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;

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PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service."

PUBLIC PURCHASES

Various audio equipment items were purchased on May 19, 2011, for \$150,145. The vendor prepared and submitted three separate invoices for three phases of the purchase and installation of the equipment. All three invoices were paid to the vendor on the same date. The audio upgrade was not bid and a contract was not awarded.

A purchasing agent shall follow competitive bidding procedures in awarding a contract for supplies, unless another purchasing method is required or authorized by IC 5-22-7-1. (Accounting and Uniform Compliance Guidelines for Counties of Indiana, Chapter 8)

Purchase requirements may not be artificially divided so as to constitute a small purchase under IC 5-22-8-1. (Accounting and Uniform Compliance Guidelines for Counties of Indiana, Chapter 8)

A contract must be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder [IC 5-22-7-8]. (Accounting and Uniform Compliance Guidelines for Counties of Indiana, Chapter 8)

Indiana Code 5-22-8-3 states:

"(a) This section applies only if the purchasing agent expects the purchase to be:

- (1) At least fifty thousand dollars (\$50,000); and
- (2) Not more than one hundred fifty thousand dollars (\$150,000).

(b) A purchasing agent may purchase supplies under this section by inviting quotes from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.

(c) The purchasing agent shall mail an invitation to quote to the persons described in subsection (b) at least seven (7) days before the time fixed for receiving quotes.

(d) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line or class of supplies required.

(e) The purchasing agent may reject all quotes.

(f) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under IC 5-22-10-10."

BOARD OF COUNTY COMMISSIONERS
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AUDIT RESULTS AND COMMENTS
(Continued)

Indiana Code 5-22-7-2 states:

- "(a) A purchasing agent shall issue an invitation for bids.
- (b) An invitation for bids must include the following:
 - (1) A purchase description.
 - (2) All contractual terms and conditions that apply to the purchase.
 - (3) A statement of the evaluation criteria that will be used, including any of the following:
 - (A) Inspection.
 - (B) Testing.
 - (C) Quality.
 - (D) Workmanship.
 - (E) Delivery.
 - (F) Suitability for a particular purpose.
 - (G) The requirement imposed under IC 5-22-3-5.
 - (4) The time and place for opening the bids.
 - (5) A statement concerning whether the bid must be accompanied by a certified check or other evidence of financial responsibility that may be imposed in accordance with rules or policies of the governmental body.
 - (6) A statement concerning the conditions under which a bid may be canceled or rejected in whole or in part as specified under IC 5-22-18-2."

COUNTY EMPLOYEE ALSO PAID AS A CONTRACTOR AT THE MEMORIAL OPERA HOUSE

An individual receives a salary for their full time employment as manager of the Expo Center and is paid as a contractual employee for their management services to the Memorial Opera House. The County was cited by the Internal Revenue Service (IRS) during a recent audit of the 2007, 2008, and 2009 records for paying certain individuals for contractual services. The IRS determined these individual contractors to be employees and subject to payroll taxes and withholding. The individual was paid for contractual services in 2011 of \$22,506, in addition to their full time salary. Although the County paid taxes and penalties to the IRS in a settlement on January 28, 2011, for the items cited in the review, the County did not make the correction in 2011 to increase the individual's salary for management of the Memorial Opera House and eliminate the contractual payments.

BOARD OF COUNTY COMMISSIONERS
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

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 statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 18)

Additionally, officials and employees have a responsibility to perform duties in a manner which would not result in any unreasonable fees being assessed against the governmental unit. Any penalties, interest or other charges paid by the governmental unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Counties of Indiana, Chapter 14)

COMMISSIONER'S APPROVAL OF THE EMPLOYEE BENEFIT FUND DISBURSEMENTS

As stated in the prior audit report, disbursements out of the "Employee Benefit Fund" (Fund 45, a self-insurance fund) are reviewed and approved by the plan administrator, the County Auditor, and a payroll clerk in the Auditor's office. However, the disbursements from the "Employee Benefit Fund" are not formerly approved by the County Commissioners.

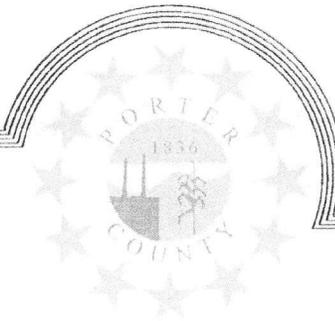
The board of county commissioners shall examine the merits of all claims or vouchers so presented and may, in its discretion, allow such claim or voucher, in whole or in part, as they may find to be valid. [IC 36-2-6-2] It is unlawful for any board of commissioners of any county or for any member thereof to make any allowance or to allow any claim or voucher against the county, or order the issuance of any county warrant for the payment of any sum of money, except at a regular or special session of the board. [IC 36-2-6-4] Each claim or voucher must show the date and amount allowed. If a claim or voucher is disallowed in whole or in part, this should be clearly shown on the claim or voucher and on the docket or register. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 7)

BOARD OF COUNTY COMMISSIONERS
PORTER COUNTY COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 9, 2012, with John Evans, President of the Board of County Commissioners. The official response has been made a part of this report and may be found on pages 10 through 13.

COUNTY - PORTER

Elizabeth A. Knight
Porter County Attorney



**Porter County
Administration Center**
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August 22, 2012

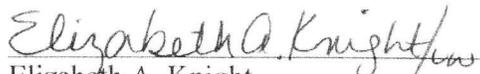
Bruce Hartman, CPA
State Examiner, State Board of Accounts
155 Indiana Ave, Suite 305
Valparaiso IN 46383

Re: Commissioners' Response to 2012 SBOA Audit

Dear Mr. Hartman:

Enclosed please find Porter County Commissioners' response to the 2012 State Board of Accounts audit.

Sincerely,


Elizabeth A. Knight

EAK/vw

Enclosures

cc: John Evans
Nancy Adams
Carole Knoblock

**PORTER COUNTY BOARD OF COMMISSIONERS
AUDIT RESULTS AND COMMENTS
2012**

QUESTIONABLE EXPENDITURES E-911

COMMENT: The Porter County Commissioners are familiar with I.C. 36-8-16-14(a) and I.C. 36-8-16.5-41 and will advise the Director of E-911 that office supplies and furniture (lockers for dispatchers) are not an allowable expenditure of E-911 funds.

PUBLIC PURCHASES

COMMENT: The Porter County Commissioners understand the provisions of I.C. 5-22-7-1, I.C. 5-22-8-3 and I.C. 5-7-2 and the Accounting and Uniform Compliance Guidelines for Counties and have and will follow those provisions.

With respect to the purchase of audio equipment on May 19, 2011, that was not bid and a contract was not awarded, see attached response of Brian Schafer, Business Director of the Memorial Opera House dated July 26, 2012.

COUNTY EMPLOYEE PAID AS A CONTRACTOR AT THE MEMORIAL OPERA HOUSE

COMMENT: The Porter County Commissioners acknowledge that there was no elimination of contractual payments in 2011, acknowledge that compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements and have eliminated the dual employment problem as the Manager of the Expo Center and Memorial Opera House is no longer the same individual. The positions will be appointed to two separate individuals.

COMMISSIONERS' APPROVAL OF THE EMPLOYEE BENEFIT FUND DISBURSEMENT

COMMENT: The Porter County Commissioners understand that pursuant to I.C. 36-2-6-2 all claims and vouchers must be approved by the Porter County Board of Commissioners and the Porter County Board of Commissioners will commence to approve disbursements from the "Employee Benefit Fund" (Fund 45, a self-insurance fund) as required by law at least quarterly in a public meeting. The Porter County Board of Commissioners acknowledges its oversight with respect to the issue from the prior audit and will proceed as outlined above.



COPY

Thursday, July 26, 2012

Bruce Hartman, CPA
State Examiner
State Board of Accounts
155 Indiana Avenue Suite 305
Valparaiso, IN 46383

Re: Official Response: Memorial Opera House 2011 Audit

To Whom It May Concern:

Please allow this document to serve as official response to the most recent State Board of Accounts audit performed on the Porter County Memorial Opera House.

The audit noted the purchase of "various audio equipment items...May 19, 2011...The audio upgrade was not bid and a contract was not awarded." The upgrade of the Opera House audio system began two years prior and spanned over the course of several years and was done with the best of intentions and ultimately saving the County a significant amount of money. The project was presented several times in public meetings before the Porter County Board of Commissioners and ultimately approved at each stage of the installation. In addition, the work was performed by industry professionals with many years of experience as opposed to hiring a consultant to perform a study and ultimately cost more money.

These audio upgrades have afforded the Memorial Opera House the opportunity to provide top quality entertainment including national touring concerts, musical theater, limited release and independent film and more. This has lead to a dramatic increase in scheduled events at the Memorial Opera House over recent years which results in additional revenue to keep the doors open. If Porter County Government wishes the Memorial Opera House to remain self-sustaining without the assistance of tax revenue, Elected Officials must realize the need for continual maintenance and upkeep to a historic venue nearly 120 years old.

The audit also noted a "conflict of interest". Again, the contract between Next Level Productions, LLC and Porter County has been executed publically at the Board of Commissioners meeting annually. Additionally, individual County departments do not have the ability to generate checks on demand. Such requests must be submitted to the County Auditor's Office for production which typically takes anywhere from 1-2 weeks.

Next Level Productions, LLC provided the funds to purchase “cash on delivery” items that included beer from Northcoast Distributing and security officers for concert events. In the State of Indiana, beer cannot be purchased on credit – therefore requiring cash on delivery. I was never instructed nor was knowledgeable that a Conflict of Interest Disclosure Statement existed or needed to be filed.

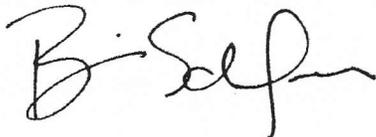
It was noted that “we found an instance where a gift card was purchased from Memorial Opera House Funds to an individual in lieu of monetary compensation.” Much of the work done at Memorial Opera House, specifically on theater productions, is done on a volunteer basis by a countless number of volunteers. Without their help and support, these productions would not be possible.

It was noted in the audit that donation and gift card sales are not tracked through computer software. The Memorial Opera House ticketing system does not offer a gift card program. This forced Management to look elsewhere for a gift card program to offer customers. The computer program used to track gift cards does not integrate into the ticketing software because they are produced by two separate companies. Auditors would like to see everything run thru the ticketing software but unfortunately, this is something beyond the control of Memorial Opera House Management.

The comment was also made that “individual receipts are not issued for all sources of revenue [and] the accountability for the cash could not be verified”. If a transaction such as a donation or cash purchase of a gift card is made, a handwritten receipt from the approved State Board of Accounts receipt book is made and given to the customer. The Auditors noted one instance of a nominal gift card purchase that could not be located in the receipt book. I am confident this was simply an error in our Box Office staff on this occasion. Memorial Opera House employees who handle Box Office transactions are trained to write receipts when one is not provided through the ticketing program.

It was noted that a ledger of accounts was not maintained. The Memorial Opera House as well as the Porter County Expo Center utilize the same State Board of Accounts approved accounting software and have for a number of years. I attempted to generate every possible report the system could provide to satisfy what the Auditors were seeking and none seemed to show what was needed. I am confident all revenue and expense activity is properly recorded for the year.

Respectfully Submitted,



Brian Schafer
Business Director & Executive Producer
Memorial Opera House

CC: Porter County Board of Commissioners
John Evans, President
Nancy Adams
Carole Knoblock