

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

REVIEW REPORT  
OF  
SECRETARY OF STATE  
STATE OF INDIANA  
June 1, 2008 to March 15, 2012



**FILED**  
04/22/2013



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AGENCY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Secretary of State	Theodore (Todd) E. Rokita	01-01-03 to 12-31-10
	Charles P. White	01-01-11 to 02-04-12
	Jerold A. Bonnet (Interim)	02-05-12 to 03-15-12
	Connie Lawson	03-16-12 to 12-31-14



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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INDEPENDENT ACCOUNTANT'S REPORT

TO: THE OFFICIALS OF THE SECRETARY OF STATE

We have reviewed the activities related to the receipts, disbursements, and assets of the Secretary of State for the period of June 1, 2008 to March 15, 2012. The Secretary of State's management is responsible for the receipts, disbursements, and assets.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on the receipts, disbursements, and assets. Accordingly, we do not express such an opinion.

Financial transactions of this office are included in the scope of our audits of the State of Indiana as reflected in the Indiana Comprehensive Annual Financial Reports. Federal programs are included in the scope of our statewide single audits as reflected in the Statewide Single Audit Reports.

Based on our review, nothing came to our attention that caused us to believe that the activities related to the receipts, disbursements, and assets of the Secretary of State are not in all material respects in conformity with the criteria set forth in the Accounting and Uniform Compliance Guidelines Manual for State and Quasi Agencies, and applicable laws and regulations except as stated in the review comments.

The Secretary of State's response to the Review Comments identified in our review is described in the accompanying section of the report entitled Official Response. We did not review the Secretary of State's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the Secretary of State's management, and others within the entity, and is not intended to be and should not be used by anyone other than these specified parties. In accordance with Indiana Code 5-11-5-1, this report is a part of the public records of the State Board of Accounts and of the office reviewed.

STATE BOARD OF ACCOUNTS

January 31, 2013

SECRETARY OF STATE  
REVIEW COMMENTS  
MARCH 15, 2012

**OVERPAYMENT**

During our review, we determined that the Secretary of State's Office improperly overpaid former Secretary of State Todd Rokita in salary, benefits and housing allowance. Mr. Rokita served two terms as Indiana Secretary of State, from January 1, 2003 to December 31, 2010. During his two terms, he was paid his statutory salary and housing allowance in its entirety. In addition, on January 5, 2011, Mr. Rokita improperly received a paycheck. This extra paycheck included salary, housing allowance and a distribution to his Health Savings Account for a total gross benefit of \$4,405.86. Since taxes and insurance benefits of \$203.42 are recoverable by the State, the net overpayment was \$4,202.44. We requested and received repayment from Mr. Rokita in the amount of \$4,202.44. (See Summary of Charges, page 13)

Each agency, department, quasi, institution or office should have internal controls in effect to provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of managements' objectives, and compliance with laws and regulations. (Accounting and Uniform Compliance Guidelines Manual for State and Quasi Agencies, Organizational Overview)

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements, and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for State and Quasi Agencies, Organizational Overview)

**LATE PAYMENT PENALTY**

Auditor of State accounting records reflect late payment penalties paid to vendors and charged to accounts of the Secretary of State as a result of untimely payment of claims. Total penalties for the fiscal year 2011 were \$6,356.63 and for the current fiscal year through March 15 penalties were \$437.89. These penalties are an unnecessary use of public funds.

Indiana Code 5-17-5 requires a state agency to: ". . . pay a late payment penalty at a rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel whenever the state agency . . . fails to make timely payment."

Payment of penalties and interest due to late payments to vendors may be the obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines for State and Quasi Agencies, 6.4.7.4)

Each agency, department, quasi, institution, or office is responsible for compliance with applicable statutes, regulations, contract provisions, state policies, and federal requirements. (Accounting and Uniform Compliance Guidelines for State and Quasi Agencies, Organizational Overview – General Guidelines and Policy, IV. Summary of Agency Accounting Responsibilities)

SECRETARY OF STATE  
EXIT CONFERENCE

The contents of this report were discussed on March 20, 2013, with Connie Lawson, Secretary of State, and Marisa Smith, Director of Operations. Copies of this report were e-mailed on March 21, 2013, to Todd Rokita and Charles P. White, former Secretaries of State. The Official Responses have been made a part of this report and may be found on pages 6 through 12.

March 29, 2013

Mr. Bruce Hartman  
State Examiner  
Indiana State Board of Accounts  
312 W. Washington Street  
Indianapolis, IN 46204

**RE: Indiana Secretary of State Audit Response**

Dear Mr. Hartman:

I hope this letter finds you well. The purpose for my communication with you is to respond to the audit your examiners recently completed, which included the final six months of my term as Indiana Secretary of State.

Serving as Indiana's Secretary of State remains among the highest honors of my public service. My team and I took the job very seriously and operated the office in an extremely efficient manner, taking no more from the state's General Fund than the Office did in 1987, unadjusted for inflation.

OVERPAYMENT

A few days after my second term ended on December 31, 2010, I received my final paycheck from the Indiana Auditor of State's Office via automatic electronic deposit, just as all earlier installments had been made over the previous eight years. A few days after that deposit, I received a notice in the mail from the Auditor of State confirming the direct deposit and the time period for which the pay check was being rendered.

This notice was the same as the notices I received every two weeks for the eight years I served as Secretary of State. Specifically, this notice indicated that the pay period ended on December 31, corresponding to my last day in office, which was also the end of the pay period. Therefore, I had no reason to question the payment in any way. However, your office has made me aware by letter that in fact, after a routine, periodic audit, it has been discovered that the Auditor's office had inadvertently over-paid me.

In particular, I am now aware that due to a quirk in the relationship between how the state makes salary payments across the calendar year and the statutory limit on my salary as Secretary of State, I was technically "overpaid". This happened even though I only received payment during the time I served as Secretary of State. Upon receiving this information in writing for the first time, and reviewing a paycheck by paycheck breakdown sent by your agency, I immediately made arrangements to pay the overage amount back into the general fund. This payment has been completed.

In my follow up with the State Board of Accounts (SBOA), it is clear that this situation is not unique to me. In fact, according to SBOA, this exact situation has occurred several times. This situation would not usually occur to other state employees who do not have statutory salary caps, because they cannot be "overpaid" as long as they were employees for the time period covered by their pay check. Therefore, my simple recommendation for a way to avoid repeating this mistake in the future is to

develop a policy for the Auditor's office, consistent with its duty to oversee the compensation of employees, to closely track the pay periods of elected officials and others who may have a statutory salary cap. The policy would involve flagging said employees so as NOT to process otherwise routine and timely pay cycle requests, and disburse funds that exceed the statutory salary cap in an elected officials' final term.

Additionally, the controllers of separately elected officeholder's personnel offices should be given specific training relative to this scenario by the Auditor's office and/or the SBOA. At the very least, a simple reminder letter could be sent to the controllers of relevant agencies so this easily preventable situation does not occur.

#### LATE PAYMENT PENALTY

I am particularly concerned to learn that in a small number of cases some bills were deemed to be paid "late" and therefore late payment penalties were paid to vendors and charged to accounts of the Secretary of State. As Secretary of State, I instilled a culture of service and efficiency to promote responsible stewardship of tax dollars.

As you know, these payments totaled \$2,777.16, or 0.00126% of the total office administrative budget. It was discovered while reviewing the late payment fees that a majority of these payments were not related to the day-to-day business of the office. In fact, more than half of these supposed late payments occurred as a result of one election recount, which is a unique legal and budgetary event. While no taxpayer dollars should be wasted, when the recount invoices are separated, the actual late payment penalties account for 0.0000591% of the office budget.

As stated above, election recounts are truly a unique budgetary event and will require further attention and reform if future late payments are to be avoided. This is because the Recount Commission does not receive an appropriation by the General Assembly as other agencies do. Instead, the Recount Commission is only called to order if there is an electoral recount. Any expenses incurred by the Recount Commission in the course of their work must then be brought before the State Budget Committee where a special appropriation is made to pay the exact amount of those expenses. The State Budget Committee does not meet on a regular basis, so the special appropriation can take several months to be made, resulting in payment to vendors far beyond the 35 day window the finance system uses to trigger a late payment penalty.

In this particular case, the State Budget Committee's special appropriation was only in the amount of the expenses submitted by the Recount Commission and was provided far beyond the 35 day payment window. As such, the late payment fees were provided from the Secretary of State Office administrative fund. Given the nature of recounts, there is not a simple administrative fix to this problem unless the General Assembly elects to dedicate funds to the Recount Commission automatically every year.

Thank you for your time and effort. I appreciated the report.

Sincerely,

/ss/

Todd Rokita  
Indiana's 59<sup>th</sup> Secretary of State

**From:** Charles White [<mailto:secretarywhite@gmail.com>]  
**Sent:** Friday, March 29, 2013 8:33 PM  
**To:** Heilman, Dan  
**Subject:** Re: Secretary of State review

Dan,

Thank you for forwarding this report to me.

"Daily Deposit" Comments:

I cannot agree with you more that if there were any monies not deposited with the Treasurer of State within the required period that I.C. 5-13-4-20 needs to be adhered to. I do not know if there is any future advice that you may have to prevent this from happening again. For example, maybe the election division should obtain an electronic "check reader" that many government agencies, banks and companies use that will allow a check to automatically be electronically "read" and "deposited" into the depository bank instead of an employee physically making a deposit if this would be allowed by the Board of Accounts.

"Cash Book" Comments:

Obviously, I agree that the cash book for the election division should be kept up at the close of the business day. Aside from the Co-Directors of the Division insuring that the employees to this at the close of the business day, I wonder if there are any processes or programs that the Auditor of State would suggest compatible with the software and process changes employed when peoplesoft and other programs were intergrated throughout the executive agencies. This may be a overly simplified suggestion and the system may not allow for it, but I wonder if whoever is entrusted with the cash book be made to "clock" out on peoplesoft or a compatible software platform for their purposes as employee. When "clocking out" on the system perhaps the administrator of the cash book will either be required to check a box on screen stating that they have balanced the cash book or the system will not let them "clock out" until the cash book is reconciled electronically on the system itself.

"Late Payment Penalty" Comments:

After I was no longer the Indiana Secretary of State, I had read about the hundreds of thousands dollars of late fees that executive agencies under Governor Daniels paid out. I do not know the particular circumstances of the late payments. First, I do not know if the payments were paid late because the agency employee had not properly processed the claim for the payments according to standards governed by the Auditor of State. It is often premature to immediately assume that staff made a mistake. Second, I do not know if the vendor(s) caused the payment to be late because they failed to comply with a requirement arising out of the state's conversion to peoplesoft (I was accustomed to hearing reports of this when I was Asst. Director of the IDNR in 2008/2009). Third, I do not know if the delay in payment was caused by any internal unresolved issues between agencies or between the Office of the Indiana Secretary of State and the Indiana Election Commisison on which "funding source" the funds to pay the claim would come from. Fourth, if nonrecurring claims exist, sometimes the "funding source" has inadequate

monies appropriated and/or allotted to it and the appropriate executive and legislative leadership need to be consulted.

In the spirit of engaging in best management practices, it is always best to pay all claims to vendors on time. If the Board of Accounts and/or the Auditor of State have any recommendations or process enhancements they recommend I am confident that the Indiana Election Commission and their Co-Directors and well as the current appointed SOS will be open to suggestions. In addition, I am wondering if the state has a policy of paying a claim in 30 days or 35 days. If the policy is 35 days, perhaps that policy should be reviewed to make it 30 days.

Note about the Election Division:

While I am sure you know this, I want to remind you about the peculiar governmental structure of the "Election Division" so you reach out to all of the appropriate "decision makers" to implement preventative measures. When I was Secretary of State, the only employees under my office from that division were the two employees that were involved with the "Help America Vote Act" outreach and an employee who worked with the Co-Directors and their staff on a 3 member committee that administered the Statewide Voter Registration System.

It is my understanding that the Co-Directors Brad King and Trent Deckard, their respective co-counsels, and the equal staff below them that are involved in redrawing precinct boundaries, general administrative matters as well as the execution and enforcement and campaign finance laws all work for and answer to the Indiana Election Commission. Two members from each of the two major parties put forward by each of the two State Chairpersons are appointed by the governor. It is my understanding that these employee's payrolls are considered to be as any agency would be if they were one of the executive agencies under the Governor. For example, it is my understanding that when Governor Daniels announced a pay raise for state employees, the employees of the Indiana Election Commission received a raise while the employees of the SOS did not. I am assuming that if the election division is receiving a lot of "live" checks it is because they are various fines paid by candidates, parties and pac's that did not file their campaign finance reports on time. These employees would be answerable to the IEC, not the SOS.

The reason why the above information is important is because some of the issues you have brought up may be able to be resolved by the office Secretary of State and staff while other issues and suggested processes will need to be suggested to the Indiana Election Commission and its Co-Directors who do not answer to the Indiana Secretary of State. If it is an issue, for example, concerning a website vendor, then both offices will have to be involved to take preventative measures. If the issue are checks received for a multitude of candidates, parties and pac's who may file their finance reports a day or two late or cash book issues relating to those checks, the Indiana Election Commission would be the authority to speak to. Finally, if there is an accounting/ledger issue with the HAVA coordinators, that would be a better issue for the Secretary of State and not the Indiana Election Commission.

I know this structure is a bit confusing, but I hope that this gives you an adequate explanation of who you will need to go to between the Indiana Election Commission or the Indiana Secretary of State depending on the issue to make the appropriate suggestions for preventative measures.

As to this additional payment to Congressman Rokita, I am glad to see that he and the agency reached some understanding and he repaid it. I understand Congressman Rokita worked for the agency for several years before he was elected and there may have been an oversight that the time period for which the elected official is paid is different than all other staff members. That is the way I remember staff explained to me how the error occurred.

Please call me at [317-903-4699](tel:317-903-4699) if you have any other issues. As a former assistant director and special counsel for the Indiana Department of Natural Resources and as the 60th Secretary of State, I always appreciate the opportunity to assist the State of Indiana to improve our effective use of government resources. There were many other structural changes I wished I could have implemented for the agency that would have affected process, services and finances so I always appreciate even small opportunities to comment.

If you have questions or would like to seek comments on other divisions do not hesitate to contact me.

Best Regards,

Charles P. White

SECRETARY OF STATE  
STATE OF INDIANA



CONNIE LAWSON  
SECRETARY OF STATE

April 1, 2013

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

Ladies and Gentlemen:

On behalf of the Office of Secretary of State Connie Lawson please accept this acknowledgement of receipt of the audit and findings by the State Board of Accounts for the period June 1, 2008 through March 15, 2012. This office reserves comment or response to the audit and findings out of deference to former Secretaries of State who served during the period covered by this audit.

Respectfully submitted,

N. Davey Neal  
Deputy Secretary of State  
Chief of Staff  
Office of Indiana Secretary of State Connie Lawson  
State House 201  
Indianapolis, IN 46204  
(317) 234-7152  
[ndneal@sos.in.gov](mailto:ndneal@sos.in.gov)

SECRETARY OF STATE  
SUMMARY OF CHARGES

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Todd Rokita, former Secretary of State:			
Overpayment, page 4	\$ 4,202.44	\$	\$
Payment Received February 18, 2013		2,000.00	
Payment Received March 11, 2013		<u>2,202.44</u>	<u>-</u>
 Totals	 <u>\$ 4,202.44</u>	 <u>\$ 4,202.44</u>	 <u>\$ -</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.