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

AUDIT REPORT

OF

COUNTY AUDITOR

LAKE COUNTY, INDIANA

January 1, 2012 to December 31, 2012

FILED
04/08/2014

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COUNTY OFFICIALS

Office	Official	Term
Auditor	Peggy Holinga Katona	01-01-11 to 12-31-14
President of the County Council	Jerome A. Prince	01-01-12 to 12-31-12
	Ted F. Bilski	01-01-13 to 12-31-13
President of the Board of County Commissioners	Gerry J. Scheub	01-01-12 to 12-31-12
	Roosevelt Allen Jr.	01-01-13 to 12-31-13

STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF LAKE COUNTY

We have audited the records of the County Auditor for the period from January 1, 2012 to December 31, 2012, 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 Lake County for the year 2012.

STATE BOARD OF ACCOUNTS

August 27, 2013

INTERNAL CONTROLS OVER FINANCIAL REPORTING

The Auditor is responsible to prepare the County Annual Report (CAR) and electronically submit it to the Indiana State Board of Accounts. The financial information submitted generates the financial statement to be audited. Internal controls over the receipting, disbursing, recording, and accounting for the financial activities were insufficient. Our audit found the following errors in the financial information submitted by the Auditor:

> The beginning cash balance reported in the 2012 CAR did not agree to the ending cash balance in the prior audit report for 11 of the funds accounted for by the Auditor. For 6 of the funds, cash balances at January 1, 2012, increased a total of $1,340,644 from the amounts reported in the 2011 CAR. Cash balances at January 1, 2012, decreased a total of $1,304,360 for the 5 remaining funds. These differences resulted in a net increase in overall cash balances of $36,284.
>
> Review of the adjusting entries to the financial accounting system noted that some were for 2011 activities. In all cases, the adjusting entries affected the beginning cash balances in the County's ledgers which changed from the audited balances reported for 2011. These adjustments also changed the current year's (2012) receipts and disbursements when they were recorded in the financial accounting system. Although the adjusting entries were reviewed and approved before being recorded in the accounting system, each entry's effect on the financial statements was not detected. For many of these adjusting entries, a transfer of funds in the current year would have been a more appropriate transaction.
>
> With the approval of management, adjusting entries have been made to the 2012 financial statements to more accurately report beginning cash.

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets, and all forms of information processing are necessary for proper internal control.

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 County Auditors of Indiana, Chapter 14)

ERRORS ON CLAIMS - CLAIM PAYMENT PRIOR TO BOARD ALLOWANCE

The 2012 minutes of the Board of County Commissioners noted that claims supporting manual checks issued by the Auditor were not approved by the Board of County Commissioners until the month after issuance; two months for claims paid in July and September. This error resulted in $76,962,510 expenditures which did not have proper Board of County Commissioners approval before payment.

The County's codified ordinances did not include an ordinance authorizing the Auditor to prepay claims prior to of Board of County Commissioners' approval.

Indiana Code (IC) 5-11-10-1.6 states in part:

> "(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless: . . .

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

Indiana Code 36-2-6-4.5 states in part:

"(a) A county executive may adopt an ordinance allowing money to be disbursed for lawful county purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the county auditor may make claim payments in advance of board allowance for the following kinds of expenses if the county executive has adopted an ordinance under subsection (a): . . .

(d) The county executive or the county board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense."

OVERDRAWN CASH BALANCES

The financial statements presented in this report included the following funds with overdrawn cash balances at December 31, 2012:

Fund	Amount Overdrawn
General Fund	$ 1,762,470
County Innkeepers Tax	174,372
Sheriff's Sale Program	9,670
Exempt Park Rev Bond	16,637
Commissary Payroll Pass Through (No. 332)	302,866

The Commissary Payroll Pass Through Fund became overdrawn in 2012 due to disbursements prior to sufficient deposits from the Sheriff's Commissary as required by Ordinance 1330E. The County Innkeepers Tax Fund no longer received tax collections in 2012 based upon an Interlocal agreement with the South Shore Convention and Visitors Authority (SSCVA). Distributions to various entities in 2012 were in excess of the remaining balance.

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 governmental unit. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

COUNTY EXCESS LEVY FUND

The County Excess Levy Fund (Fund 113) had a cash balance of $7,953,045.12 at December 31, 2012. This balance is comprised primarily of undistributed Family and Children funds, 2008 and prior delinquent taxes (related to the Family and Children funds), and prior years Excess Levy funds. There has been no activity in this fund since December 29, 2011.

In 2008 and 2009, the Indiana Department of Child Services and the Department of Local Government Finance (DLGF), respectively, provided the County with procedures to transfer the balances of the Family and Children's Fund and the Children's Psychiatric Residential Treatment Service (CPRTS) Fund to Excess Levy Fund. The County followed these guidelines and distributed the required portions of these Funds from Excess Levy Fund to each of the County's taxing units for public safety purposes as required by statute in effect at that time.

Due to the delay in the billing of the 2008 Pay 2009 taxes, the final distribution in 2010, and additional subsequent collections of delinquent amounts for 2009 pay 2010 and 2010 pay 11 tax years, the fund received an additional $3,248,961.74 related to the Family and Children funds. These amounts were not anticipated in the process of the fund closure. Inquiry of the Auditor of State's Office confirmed that these amounts should be accounted for in the Excess Levy Fund

In 2011, the DLGF ordered the County to transfer of $625,863 of the above balance to the General Fund; however, this transfer was not made. The County has not properly reported the remaining Excess Levy Fund balances related to the closure of the Family and Children funds to the DLGF during the budget procedures.

Indiana Code 6-1.1-18.5-17 defines levy excess to mean the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance. It requires that the levy excess be deposited into a fund to be known as the levy excess fund except as provided under IC 6-1.1-18.5-17 (h) and (i) which state:

> "(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars ($100), no money shall be deposited in the levy excess fund of the unit for that year.
>
> (i) This subsection applies only to a civil taxing unit that:
>
> (1) has a levy excess for a particular calendar year;
>
> (2) in the preceding calendar year experienced a shortfall in property tax collections below the civil taxing unit's property tax levy approved by the department of local government finance under IC 6-1.1-17; and
>
> (3) did not receive permission from the department to impose, because of the shortfall in property tax collections in the preceding calendar year, a property tax levy that exceeds the limits imposed by section 3 of this chapter.
>
> The amount that a civil taxing unit subject to this subsection must transfer to the civil taxing unit's levy excess fund in the calendar year in which the excess is collected shall be reduced by the amount of the civil taxing unit's shortfall in property tax collections in the preceding calendar year (but the reduction may not exceed the amount of the civil taxing unit's levy excess)."

To expend the levy excess Indiana Code 6-1.1-18.5-17 (d)-(g) states:

"(d) The department of local government finance shall require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used."

DELINQUENT COLLECTION FEES FUND

In 2002, the Board of County Commissioners entered into a contract with Tax Management Associates (TMA) to identify undervalued or omitted personal property not properly recorded in the County's tax system. Once identified by TMA, the County pursued collection of the delinquent taxes through outside attorneys. Prior to July 2012, when collection from these properties occurred, the delinquent tax and the attorney fees paid by the property owner were receipted into the Delinquent Collections Fee Fund (TMA Fund 235). TMA and the outside attorneys were paid from this fund.

On July 17, 2012, the balance of TMA Fund 235 was $2,783,808.52. On the advice of the Board of County Commissioners' Attorney, the Auditor transferred $1,262,616.09 from the fund (based upon expenses estimated by the County Attorney) to the Collection Expense Reimbursement Fund (386). The remaining $1,521,192.43 in the fund was transferred into the newly established Undervalued and Omitted Property Fund (387).

After July 2012, collection of delinquent taxes from these types of properties was receipted into the Undervalued and Omitted Property Fund. Also, after July 2012, the attorney fees paid by the property owners were receipted into the Collections Expense Reimbursement Fund (386). According to the statute cited below, the Auditor is obligated to distribute $2,965,148.52 to the appropriate taxing districts as detailed below:

Description	Amount
Undervalued and ommitted personal property taxes erroeously transferred to the Collection Expense Reimbursement Fund	$1,262,616.09
Undervalued and ommitted personal property taxes erroeously transferred to the new Undervalued and Ommitted Property Fund	1,521,192.43
2012 Undervalued and omitted property tax collections	240,390.00
Subtotal	3,024,198.52
Less documented expenses of collection	(59,050.00)
Total to be distributed to taxing districts	$2,965,148.52

Indiana Code 6-1.1-23-7 states:

"(a) With respect to the collection of delinquent personal property taxes, the county treasurer shall charge the following collection expenses to each delinquent taxpayer:

(1) For making a demand by:

(A) registered or certified mail, eight dollars ($8); or

(B) any other manner permitted by section 1 of this chapter, five dollars ($5).

(2) For making a levy, ten dollars ($10).

(3) For selling personal property, ten percent (10%) of the sale price.

(4) For advertising a sale, the legal rates for advertising.

(5) For transfer and storage of personal property, the actual expense incurred.

(6) Other reasonable expenses of collection, including:

(A) title search expenses;

(B) uniform commercial code search expenses; and

(C) reasonable attorney's fees or court costs incurred:

(i) in the collection process;

(ii) due to a court order; or

(iii) due to an order of the treasurer; under IC 6-1.1-23-10

(b) The fees collected under this section are the property of the county and shall be deposited in the county general fund. The collection expenses incurred in connection with the levy upon and sale of personal property shall be paid from the county general fund without prior appropriation."

Indiana Code 6-1.1-36-12 states:

"(a) A board of county commissioners, a county assessor, or a township assessor (if any) may enter into a contract for the discovery of property that has been undervalued or omitted from assessment. The contract must prohibit payment to the contractor for discovery of undervaluation or omission with respect to a parcel or personal property return before all appeals of the assessment of the parcel or the assessment under the return have been finalized. The contract may require the contractor to:

(1) examine and verify the accuracy of personal property returns filed by taxpayers with the county assessor or a township assessor of a township in the county; and

(2) compare a return with the books of the taxpayer and with personal property owned, held, possessed, controlled, or occupied by the taxpayer.

(b) This subsection applies if funds are not appropriated for payment of services performed under a contract described in subsection (a). The county auditor may create a special nonreverting fund in which the county treasurer shall deposit the amount of taxes, including penalties and interest, that result from additional assessments on undervalued or omitted property collected from all taxing jurisdictions in the county after deducting the amount of any property tax credits that reduce the owner's property tax liability for the undervalued or omitted property. The fund remains in existence during the term of the contract. Distributions shall be made from the fund without appropriation only for the following purposes:

(1) All contract fees and other costs related to the contract.

(2) After the payments required by subdivision (1) have been made and the contract has expired, the county auditor shall distribute all money remaining in the fund to the appropriate taxing units in the county using the property tax rates of each taxing unit in effect at the time of the distribution.

(c) A board of county commissioners, a county assessor, or a township assessor may not contract for services under subsection (a) on a percentage basis."

COMMISSIONER TAX SALE DISTRIBUTION

Proceeds from the sale of property at the Commissioner Tax Sale were recorded in the Commissioner Tax Sale Fund (385). The expenses related to the Commissioner Tax Sale, i.e., professional services, advertising, appraisals, redemption of property, and any other related expenses were paid from this fund. In addition to the expenses paid from this fund, the Auditor transferred monies from the Commissioner Tax Sale Fund (385) to various incentive funds. The transfers, based upon direction from the County Council during 2010, 2011, and 2012, are as follows:

Fund	2010	2011	2012
Auditor's Incentive Fund	$ 100,000	$ 236,000	$ 236,000
Commissioner's Incentive Fund	100,000	250,000	300,000
Recorder's Incentive Fund	100,000	100,000	100,000
Treasurer's Incentive Fund	100,000	240,000	240,000
Total transfers received	$ 400,000	$ 826,000	$ 876,000

According to Indiana Code 6-1.1-25-9, identified costs relating to the tax sale can be paid from the proceeds from the sale of property. Ordinance 1333A established amounts to be transferred to the incentive funds from the Commissioner Tax Sale Fund. The incentive funds were established to cover payroll costs associated with the Commissioner Tax Sale. After payment of tax sale expenses, the Auditor transferred a portion of the surplus Commissioner Tax Sale funds to the incentive funds. The cash balances of the Commissioner Tax Sale Fund and the Incentive Funds as of December 31, 2012, are as follows:

Fund	December 31, 2012 Cash Balance
Commissioner Tax Sale Fund	$ 2,313,313
Auditor's Incentive Fund	358,108
Commissioner's Incentive Fund	294,511
Recorder's Incentive Fund	276,184
Treasurer's Incentive Fund	337,254

On April 15, 2013, the Auditor distributed $1,924,000 from the Commissioner Tax Sale Fund to the applicable taxing units.

Indiana Code 6-1.1-25-9(a) states in part:

"When a county acquires title to real property under IC 6-1.1-24 and this chapter, the county executive may dispose of the real property under IC 36-1-11 or subsection (e). The proceeds of any sale under IC 36-1-11 shall be applied as follows:

(1) First, to the cost of the sale or offering for sale of the real property, including the cost of:

(A) maintenance;

(B) preservation;

(C) administration of the property before the sale or offering for sale of the property;

(D) unpaid costs of the sale or offering for sale of the property;

(E) preparation of the property for sale;

(F) advertising; and

(G) appraisal.

(2) Second, to any unrecovered cost of the sale or offering for sale of other real property in the same taxing district acquired by the county under IC 6-1.1-24 and this chapter, including the cost of:

(A) maintenance;

(B) preservation;

(C) administration of the property before the sale or offering for sale of the property;

(D) unpaid costs of the sale or offering for sale of the property;

(E) preparation of the property for sale;

(F) advertising; and

(G) appraisal.

(3) Third, to the payment of the taxes on the real property that was removed from the tax duplicate under section 4(c) of this chapter.

(4) Fourth, any surplus remaining into the county general fund."

COLLECTION EXPENSES WITHHELD FROM SETTLEMENT DISTRIBUTION

The Auditor distributed property tax collections in June 2012. Litigation expenses associated with two large property tax cases were withheld from the June 2012 settlement involving the following taxing units:

Taxing Unit	Amount
Calumet Township	$ 889,138.27
Hammond	22,541.65
East Chicago	130,490.68
Whiting	161,232.20
Total	$ 1,203,402.80

The Board of County Commissioners' attorney directed the Auditor to deduct these amounts from the tax settlement of the units listed above, and to record the amounts as additions to the County's Collection Expense Reimbursement Fund.

We are unaware of any statutory authority to withhold these amounts from these respective taxing units. As of July 30, 2013, this has not been corrected.

The county auditor is authorized to make distributions of funds due the State of Indiana and local governmental units within the county without allowance or approval of the board of county commissioners. Distributions of property taxes, bank, building and loan taxes, license excise taxes and any other distribution which includes two (2) or more funds or sources shall be accompanied by a Certificate of Tax Distribution, Form No. 22 (Rev. 1985). If a distribution (other than property tax settlement) includes only one fund or source and the fund or source is shown on the warrant, it is not necessary to furnish a certificate of tax distribution.

Warrants for all distributions should be made payable to the fiscal officer or treasurer of the governmental unit by title, for example: Trustee, Washington Township; Clerk-Treasurer, Town of Rockville, Treasurer, North Putnam Community School Corporation. The personal name of a public official should not be shown on any warrant payable to a state agency or local governmental unit. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 7)

COUNTY AUDITOR
LAKE COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 27, 2012, with Peggy Holinga Katona, Auditor; Michael Wieser, Finance Director; Larry Cak, Executive Director; and Ajaz Mohammed, Director of Taxation.