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

AUDIT REPORT

OF

COUNTY COUNCIL

LAKE COUNTY, INDIANA

January 1, 2012 to December 31, 2012

FILED
04/08/2014

TABLE OF CONTENTS

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

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TO: THE OFFICIALS OF LAKE COUNTY

We have audited the records of the County Council 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

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 the 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 2011 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 Indiana Code 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."

COMMISSIONER TAX SALE DISTRIBUTION

Proceeds from the sale of property at the Commissioner's Tax Sale were recorded in the Commissioner Tax Sale Fund (385). The expenses related to the Commissioner's 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 County 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's Tax Sale. After payment of tax sale expenses, the County 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 County Auditor distributed $1,924,000 from the Commissioner Tax Sale Fund to the applicable taxing units.

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

"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

(F) 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."

TAX INCREMENT FINANCING (TIF) DISBURSEMENTS

Tax Increment Financing (TIF) funds were used to pay for the Redevelopment Department's 2012 operating expenses. The 2012 budget for the TIF Dissolution General Fund, in which Redevelopment operations are accounted for, totaled $341,831. The budget included payroll, supplies, and travel expenses. The TIF Dissolution General Fund was created by County Council Ordinance No. 1316D on October 13, 2009. On March 28, 2012, a transfer of $341,831 was made from the 2007 TIF Allocation trust account to the TIF Dissolution General Fund. Disbursements from this operating fund were $257,321 in 2012.

The 2007 TIF Allocation trust account activity is reported on the County's financial statement as part of the Redevelopment Authority Capital Projects Fund. The Redevelopment Authority Capital Projects Fund includes three trust accounts; Redevelopment Defeasance Escrow, Allocation Fund 1995, and Allocation Fund 2007. The combined cash balance of these three trust accounts at December 31, 2012, was $4,738,028.

Indiana Code 36-7-14-39(b)(3) states in part:

"Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivisions (1) and (2) shall be allocated to the redevelopment district and, when collected, paid into an allocation fund for that allocation area that may be used by the redevelopment district only to do one (1) or more of the following: . . . The allocation fund may not be used for operating expenses of the commission."

COUNTY COUNCIL
LAKE COUNTY
EXIT CONFERENCE

The contents of this report were discussed on August 21, 2013, with Ted F. Bilski, President of the County Council, and Dante G. Rondelli, Council Finance Director. We also met with Ted F. Bilski, President of the County Council, on August 27, 2013, to discuss the Tax Increment Financing (TIF) Disbursements comment.