

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

CITY OF TERRE HAUTE

VIGO COUNTY, INDIANA

January 1, 2013 to June 30, 2014



FILED
01/14/2015

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SCHEDULE OF OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Mayor	Duke A. Bennett	01-01-12 to 12-31-15
President of the Board of Public Works and Safety	Robert J. Murray	01-01-13 to 12-31-14
Controller	Leslie A. Ellis	01-01-13 to 12-31-14
President of the Common Council	Norman Loudermilk Amy Auler	01-01-13 to 12-31-13 01-01-14 to 12-31-14
Executive Director of the Department of Redevelopment	Cliff Lambert	01-01-13 to 12-31-14
President of the Redevelopment Commission	David Heath	01-01-13 to 12-31-14



STATE OF INDIANA
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TO: THE OFFICIALS OF THE CITY OF TERRE HAUTE, VIGO COUNTY, INDIANA

This report is supplemental to our audit report of the City of Terre Haute (City), for the period from January 1, 2013 to December 31, 2013, but specifically reports on the City's Department of Redevelopment for the period from January 1, 2013 to June 30, 2014. This report has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the City's Department of Redevelopment. It should be read in conjunction with our Financial Statement and Federal Single Audit Report of the City, which provides our opinions on the City's financial statement and federal program compliance. This report may be found at www.in.gov/sboa/.

As authorized under Indiana Code 5-11-1, we performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts. The Audit Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Audit Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

December 16, 2014

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DEPARTMENT OF REDEVELOPMENT
CITY OF TERRE HAUTE

DEPARTMENT OF REDEVELOPMENT
CITY OF TERRE HAUTE
AUDIT RESULTS AND COMMENTS

BUDGET APPROVAL

The following Redevelopment Department funds had expenses, other than debt, that were not included in a budget approved by the Redevelopment Commission and/or the City Council:

Funds with expenses not budgeted	
2013	Through June 30, 2014
Non Federal Income Jadcore TIF Allocation Fort Harrison Business Park TIF #8 Redevelopment State Road 46 Tax Allocation TIF #10 Candlewood Bond and Interest State Road 46 Construction Econ Cherry Street "A" Bond and Interest WTHI Bond and Interest Central Business District TIF #1	Non Federal Income Jadcore TIF Allocation Fort Harrison Business Park TIF #8 Redevelopment State Road 46 Tax Allocation TIF #10 Candlewood Bond and Interest State Road 46 Construction Econ

The law requires the annual enactment of a balanced budget. Appropriation accounts used in such budget shall be the framework of subsequent accounting for receipts and disbursements. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 2)

Indiana Code 36-7-14-13(e) states: "The department of redevelopment is a department of the city. The redevelopment commission and department of redevelopment are subject to the same laws, rules, and ordinances of a general nature that apply to all other commissions or departments of the unit."

Indiana Code 36-7-14-28(b) states:

"Each year the redevelopment commission shall formulate and file a budget for the tax levy, in the same manner as executive departments of the unit are required to formulate and file budgets. This budget is subject to review and modification in the same manner as the budgets and tax levies formulated by executive departments of the unit."

DEPARTMENT OF REDEVELOPMENT
CITY OF TERRE HAUTE
AUDIT RESULTS AND COMMENTS
(Continued)

DEPARTMENT OF REDEVELOPMENT EXPENSES

Redevelopment Department funds that received Tax Increment Financing (TIF) revenue had non-supervisory expenses, such as salaries and benefits that are considered operating costs of the Redevelopment Department. These operating expenses were paid out of the Fort Harrison Business Park TIF#8, Redevelopment State Road 46 Tax Allocation TIF #10, and Central Business District TIF #1 funds. The Indiana Code does not allow for redevelopment operating costs to be paid out of TIF allocation funds.

Indiana Code 36-7-14-39(b)(3) states in part: "The allocation fund may not be used for operating expenses of the commission."

SALARY ORDINANCE

Compensation and benefits were paid to Redevelopment Department employees who were not included in the salary ordinance or resolution approved by the City Council.

Indiana Code 36-4-7-5 states: "Salaries of city officers and employees shall be scheduled as provided in the budget classification prescribed by the state board of accounts".

Indiana Code 36-7-14-13(e) states: "The department of redevelopment is a department of the city. The redevelopment commission and department of redevelopment are subject to the same laws, rules, and ordinances of a general nature that apply to all other commissions or departments of the unit."

All compensation and benefits paid to officials and employees must be included in the salary ordinance 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 Cities and Towns, Chapter 7)

DEPARTMENT OF REDEVELOPMENT
CITY OF TERRE HAUTE
EXIT CONFERENCE

The contents of this report were discussed on December 16, 2014, with Duke A. Bennett, Mayor; Amy Auler, President of the Common Council; George Azar, Council member; Robert All, Council member; John Mullican, Council member; Brian F. Conley, Commission member; Jim Nichols, Commission member, and Rhonda Oldham, Attorney for the Department of Redevelopment.

The contents of this report were discussed on December 16, 2014, with Leslie A. Ellis, Controller.

The contents of this report were discussed on December 16, 2014, with Cliff Lambert, Executive Director of the Department of Redevelopment.

December 31, 2014

**CITY OF
TERRE HAUTE
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LESLIE ELLIS
City Controller

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RE: Official Response to the Supplemental Audit of the Redevelopment Funds

Redevelopment Budget Approval:

According to Indiana Code 36-7-14-13(e) and 36-7-14-28(b) all expenditures of the Department of Redevelopment, except for bond proceeds already approved by the City Council, should be approved in an annual budget by the City Council. The Redevelopment Department should follow the same budget processes as all other City Departments.

Tax Increment Financing Funds:

Tax Increment Financing Funds cannot be expended for operational or managerial salaries and benefits, Indiana Code 36-7-14-39(b)(3). In the past, such salaries and benefits have been paid from the TIF Funds by the Redevelopment Department. Only project supervisory expenses can be expended from these funds and the previous practice will no longer be allowed.

Salary Ordinance:

Indiana Code 36-4-7-5 and 36-7-14-13(e) require that a salary ordinance be approved by the City Council annually for all salaries and benefits paid by the Department of Redevelopment. It is to be treated as all other City Departments.

Sincerely,



Leslie A Ellis
City Controller
City of Terre Haute

Greetings,

This document below & attached PDF above is an “amended” response (pr my phone conversation with Mr. Paul Joyce, Indiana State Examiner) to the findings of the SBOA regarding the request for examination made by the department of redevelopment is made based on personal recollection of the written findings since written findings were not provided by the SBOA for use outside the exit interview.

1.

Response to SBA audit finding Re: ability to pay professional services and department staff “supervisory” expenses from TIF bonds/ tax allocation revenues for capital projects by the RDC

The ability to use TIF tax allocation funds including bond revenues for the purpose of professional services and supervisory expenses of capital projects is clearly established by Indiana law pursuant to IC 36-7 -14-25.1 and I.C 36-7-14-39.

Section 25.1 “In addition to other methods of raising money for property acquisition or redevelopment in a redevelopment project area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by resolution and subject to subsection (p), issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

- (1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;
- (2) **all reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance bonds...**”

Under I.C. 36-7-14-39 the tax allocation received by the Department may be used to pay expenses incurred by the redevelopment commission for local public improvements that are in the allocation area or serving the allocation area. Public improvements include buildings, parking facilities, and other items described in section 25.1(a) of this chapter.

The redevelopment department has seven employees, four of whom have significant supervisory responsibilities with capital projects in and or supporting TIF areas including architectural, engineering, legal, financing and accounting activities associated with these capital projects. Therefore a portion of their compensation proportionate to their TIF capital project duties is paid from these fund sources.

2.

Response to SBA Audit finding re Budgets of Redevelopment Dept/RDC

I provided to the SBA Audit team three documents which serve as our Redevelopment Commission/department “budgets”. The 1st is our annual HUD Consolidated Plan which the city council approves by resolution (usually it’s their 1st resol of the calendar year) in early January of each year. The 2nd is our Annual TIF Report which shows our obligations, projects in process, etc & 3rd is our expected projects for

an 18 month time period. The RDC shares this plan with the city council in June of each year. These items constitute our Redevelopment Commission's "annual budgets" & as non-tax levy entity do not have an obligation to bring a department budget to the city council for action.

SEA 118 (specifically Section 3 which amends IC 36-7-14-3 to add a new Section 3(b) therein) states:

"A redevelopment commission and a department of redevelopment are subject to oversight by the legislative body of the unit, including a **review** by the legislative body of the commission's and department's annual budget."

Historically, only those units/depts. that have a property tax levy have been subject to the traditional budgeting process as this is the process required to determine the levy and tax rate. A redevelopment department may levy a property tax for operating expenses (inside the "freeze" and subject to circuit breaker) and a handful of redevelopment departments around the state do have an operating levy. Those redevelopment departments are required to submit a budget for the operating levy. Please NOTE the State Board of Accounts Manual has **excluded** "special revenue funds" such as utility revenues and **tax increment revenues** from the budgeting process.

Based on this language and interpretation of same by legal counsel it is the redevelopment departments position that since it does not rely or utilize an operating tax levy, it is NOT required to prepare a budget.

In the absence of language in the legislation stating that the redevelopment department "shall" prepare a budget and submit the budget to the legislative body for review, we believe that it is reasonable to interpret the current language as requiring the budget be submitted to the legislative body only to the extent the redevelopment department has been required to prepare a budget in the past. The State Board of Accounts or a revisit of the law by the legislature (quite likely) may resolve this language in the future by adopting certain policies and procedures in their manual.

3.

Response to SBA Audit finding re Setting of annual compensation for department of redevelopment employees by the RDC

Indiana statute as it relates to the authority of the redevelopment commission IC 36-7-14-12.2 Powers of commission clearly indicates the Redevelopment Commission has the power to **"Prescribe the duties and regulate the compensation of employees of the department of redevelopment."**

In December or January of each year the RDC takes action by resolution on the annual compensation for the department staff. No other action is required.

Cliff Lambert
Executive Director
City Of Terre Haute, Department Of Redevelopment
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