

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF ELBERFELD

WARRICK COUNTY, INDIANA

January 1, 2012 to December 31, 2015



FILED
08/24/2016

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SCHEDULE OF OFFICIALS

| <u>Office</u> | <u>Official</u> | <u>Term</u> |
|-------------------------------|-----------------------------------|--|
| Clerk-Treasurer | Mandy Kirsch | 01-01-12 to 12-31-18 |
| President of the Town Council | Scott Dowers Martin L. Walters | 01-01-12 to 12-31-15 01-01-16 to 12-31-16 |



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE TOWN OF ELBERFELD, WARRICK COUNTY, INDIANA

This report is supplemental to our examination report of the Town of Elberfeld (Town), for the period from January 1, 2012, to December 31, 2015. It has been provided as a separate report so that the reader may easily identify any Examination Results and Comments that pertain to the Town. It should be read in conjunction with our Financial Statements Examination Report of the Town, which provides our opinion on the Town's financial statements. 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 Examination 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 Examination Results and Comments, incorporated within this report, was not verified for accuracy.

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

June 2, 2016

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CLERK-TREASURER
TOWN OF ELBERFELD

CLERK-TREASURER
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS

HANDGUN LICENSE FEES

Handgun license fees collected during the period examined were deposited into the Town's General fund.

Cities and Towns Bulletin and Uniform Compliance Guidelines, September 2013, states:

"The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.' (IC 35-47-2-3(b))

In keeping with the provisions of this statute, the following procedure is prescribed for accounting for such application fees:

1. Issue a Receipt, General Form Number 352, for each fee collected.
2. Remit receipts to the clerk-treasurer or controller at least once each week.
3. The clerk-treasurer or controller shall issue an official receipt for remittance specifying on such receipt the number of general receipts accounted for. (For example: General Receipt Numbers 1-4, \$40.00)
4. The clerk-treasurer or controller shall receipt the fees to the local law enforcement continuing education fund and deposit such receipts in the municipality's general corporation bank account. A separate depository account is not required.
5. If the application is turned down, a refund shall be made from the local law enforcement continuing education fund without appropriation upon the basis of the claim filed, allowed, and paid in the proper legal manner. No refunds are to be made from any other fund of the unit."

CAPITAL ASSET RECORDS

The Town and Utilities did not maintain sufficient and detailed records of capital assets. The records presented for examination were not up-to-date and did not include all of the capital assets owned by the Town and Utilities.

A similar comment appeared in the prior Reports B38253 and B41033.

Every governmental unit should have a complete inventory of all capital assets owned which reflects their acquisition value. Such inventory should be recorded in the applicable Capital Asset Ledger. A complete inventory should be taken at least every two years for good internal control and for verifying account balances carried in the accounting records. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CLERK-TREASURER
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS
(Continued)

CUSTOMER DEPOSIT REGISTER

The detailed customer deposit register did not reconcile with the cash and investment balance of the Water Utility-Customer Deposit fund.

Similar comments have appeared in several prior reports.

At all times, the manual and/or computerized records, subsidiary ledgers, control ledger, and reconciled bank balance should agree. If the reconciled bank balance is less than the subsidiary or control ledgers, then the responsible official or employee may be held personally responsible for the amount needed to balance the fund. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PENALTIES, INTEREST, AND OTHER CHARGES

The Town and Utilities paid penalties, interest, and other charges to the Indiana Department of Revenue in the amount of \$482 during the examination period as a result of not timely remitting adequate payments for state payroll taxes, state sales tax, and utility receipts tax for the years 2010, 2011, and 2014, respectively.

The annual utility receipts tax forms for the years 2012 and 2013 were not available for examination so we were unable to determine if additional penalties and interest were assessed for those periods.

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. 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 Cities and Towns, Chapter 7)

Indiana Code 5-15-6-3(f) concerning destruction of public records, states in part: "Original records may be disposed of only with the approval of the commission according to guidelines established by the commission . . ."

Supporting documentation such as receipts, canceled checks, tickets, invoices, bills, contracts, and other public records must be available for audit to provide supporting information for the validity and accountability of monies disbursed. Payments without supporting documentation may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

OVERPAYMENT OF SALARY

The Town Marshal was paid at a rate that was not in agreement with the adopted salary ordinances. The Town Marshal was overpaid \$172 and \$234 for the years 2014 and 2015, respectively. The total overpayment was \$406.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CLERK-TREASURER
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS
(Continued)

Governmental units should collect any overpayments made. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

APPROPRIATIONS

The records presented for examination indicated the following expenditures in excess of budgeted appropriations:

| Fund | Year | Excess Amount Expended |
|-----------------------|------|------------------------------|
| Motor Vehicle Highway | 2012 | \$ 6,461 |

Indiana Code 6-1.1-18-4 states in part: ". . . the proper officers of a political subdivision shall appropriate funds in such a manner that the expenditures for a year do not exceed its budget for that year as finally determined under this article."

INVESTMENTS

The Town originally purchased an investment which had a stated maturity in excess of two years and this investment was automatically renewed during the period examined for a term that again exceeded two years. Interest on one of the Town's certificates of deposit was being added to the original principal amount and being reinvested upon maturity. No transaction was posted to the Town's ledger for the amount of interest that was added to the investment in order to reflect the true balance of the certificate of deposit. Interest earned during the period examined totaled to \$3,146.

A similar comment appeared in prior Report B41033.

Investments made under IC 5-13-9 must have a stated final maturity of not more than two years after the date of purchase or entry into a repurchase agreement, unless the political subdivision has adopted an investment policy and ordinance under IC 5-13-9-5.7. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

A certificate of deposit may be renewed for an additional term if authorized by the governing board, without the original certificate of deposit being paid by the depository and a warrant being issued for the purchase of a new certificate of deposit. However, if renewed, the interest due the political subdivision shall be paid to the treasurer at each maturity date, or the records should show transactions which will reflect the true financial condition and the amount invested at all times. The interest shall not be added to the original deposit and reinvested by the depository without being recorded in the records. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CLERK-TREASURER
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS
(Continued)

ANNUAL FINANCIAL REPORT

The Annual Financial Reports filed for the years 2012, 2013, 2014, and 2015 were incomplete. The reports did not include the receipts, disbursements, and ending balances for the three wastewater utility SRF funds. Examination adjustments were proposed, accepted by management, and made to the financial statements presented for examination.

Indiana Code 5-11-1-4(a) states:

"The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7."

HEALTH SAVINGS ACCOUNT CONTRIBUTIONS

The Town withheld pre-tax health savings account (HSA) contributions from the Utility Manager's wages and paid them directly to the employee through a vendor check. The amounts withheld and remitted to the employee totaled \$1,950 and \$2,200 for the years 2014 and 2015, respectively. During 2015, the Town made additional payments to the Utility Manager in the amount of \$543, as the Town's contribution to his HSA. Only the amounts withheld during 2015 were reported on the employee's Internal Revenue Service Form W-2 as contributions made to an HSA.

The HSA payments were not included in the salary ordinance or any other written agreement. The Town had no evidence that the withholding/payments were being made to the employee's HSA.

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CLERK-TREASURER
TOWN OF ELBERFELD
EXIT CONFERENCE

The contents of this report were discussed on June 2, 2016, with Mandy Kirsch, Clerk-Treasurer, and Martin L. Walters, President of the Town Council.

TOWN COUNCIL
TOWN OF ELBERFELD

TOWN COUNCIL
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS

CREDIT CARDS

The Town used credit cards to purchase items without an approved credit card policy.

The State Board of Accounts will not take exception to the use of credit cards by a governmental unit provided the following criteria are observed:

1. The governing board must authorize credit card use through an ordinance or resolution, which has been approved in the minutes.
2. Issuance and use should be handled by an official or employee designated by the board.
3. The purposes for which the credit card may be used must be specifically stated in the ordinance or resolution.
4. When the purpose for which the credit card has been issued has been accomplished, the card should be returned to the custody of the responsible person.
5. The designated responsible official or employee should maintain an accounting system or log which would include the names of individuals requesting usage of the cards, their position, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned, etc.
6. Credit cards should not be used to bypass the accounting system. One reason that purchase orders are issued is to provide the fiscal officer with the means to encumber and track appropriations to provide the governing board and other officials with timely and accurate accounting information and monitoring of the accounting system.
7. Payment should not be made on the basis of a statement or a credit card slip only. Procedures for payments should be no different than for any other claim. Supporting documents such as paid bills and receipts must be available. Additionally, any interest or penalty incurred due to late filing or furnishing of documentation by an officer or employee should be the responsibility of that officer or employee.
8. If properly authorized, an annual fee may be paid.

(Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

APPROPRIATIONS

The records presented for examination indicated the following expenditures in excess of budgeted appropriations and the Council did not receive an additional appropriation:

TOWN COUNCIL
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS
(Continued)

| Fund | Year | Excess Amount Expended |
|-----------------------|------|------------------------------|
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The HSA payments were not included in the salary ordinance or any other written agreement. The Town had no evidence that the withholding/payments were indeed being made to the employee's HSA.

Each governmental unit is responsible for compliance with all rules, regulations, guidelines, and directives of the Internal Revenue Service and the Indiana Department of Revenue. All questions concerning taxes should be directed to these agencies. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

All compensation and benefits paid to officials and employees must be included in the salary ordinance adopted by the legislative 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)

QUESTIONABLE COSTS

In 2011, the Town Council passed Ordinance 2011-3, which created the position of Utility Clerk for the Town, removed the duties and responsibilities of utility billing and collection from the Clerk-Treasurer, and granted them to the Utility Clerk. Also during 2011, the Town Council approved a Salary Ordinance, Ordinance 2011-6, reducing the Clerk-Treasurer's salary by \$1,030 per month starting in 2012.

In December 2011, the Clerk-Treasurer filed a lawsuit against the Town Council in the Warrick Circuit Court, Cause No. 87C01-1211-CC-001625, on the grounds that the Town Council could not lawfully reduce her compensation below the amount fixed for the previous year.

TOWN COUNCIL
TOWN OF ELBERFELD
EXAMINATION RESULTS AND COMMENTS
(Continued)

The Court agreed and on December 30, 2015, ordered the Town Council to immediately amend the salary ordinance to reflect an annual compensation for the Clerk-Treasurer to be no less than \$2,663 per month. The Court further ordered the Town to pay the Clerk-Treasurer \$49,438 to cover the shortfall created by the Town Council's actions in reducing the compensation of the Clerk-Treasurer, and to pay prejudgment interest totaling \$3,995 to the Clerk-Treasurer. The Court also ordered the Town Council to approve claims presented by the Clerk-Treasurer for her attorney fees.

On February 29, 2016, the Town paid the Clerk-Treasurer \$53,393, which included the shortfall created by the Town Council's actions on the Clerk-Treasurer's salary of \$49,438 and prejudgment interest of \$3,955.

During the period of time from when the lawsuit was filed and the judgement was rendered, the Clerk-Treasurer incurred attorney fees totaling \$58,843. The Town, per the Court order, paid \$2,250 of these fees during the examination period and \$56,593 during 2016. In addition, the Town incurred attorney fees related to its defense totaling \$32,103; paying \$31,027 during the examination period and \$1,076 in 2016.

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

TOWN COUNCIL
TOWN OF ELBERFELD
EXIT CONFERENCE

The contents of this report were discussed on June 2, 2016, with Martin L. Walters, President of the Town Council, and Mandy Kirsch, Clerk-Treasurer.