

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

SUPPLEMENTAL COMPLIANCE REPORT

OF

TOWN OF MERRILLVILLE

LAKE COUNTY, INDIANA

January 1, 2021 to December 31, 2022



FILED

11/16/2023

TABLE OF CONTENTS

| <u>Description</u> | <u>Page</u> |
|--|-------------|
| Schedule of Officials | 2 |
| Transmittal Letter | 3 |
| Clerk-Treasurer: | |
| Audit Results and Comments: | |
| Internal Controls | 6-7 |
| Contracts | 7-8 |
| Motor Vehicle Highway (MVH) - Restricted Fund | 8 |
| Annual Financial Report | 9 |
| Exit Conference | 10 |
| Town Court: | |
| Audit Result and Comment: | |
| Internal Controls | 12-13 |
| Exit Conference | 14 |
| Redevelopment Commission: | |
| Audit Result and Comment: | |
| Tax Increment Financing (TIF) Allocation Fund Uses | 16-17 |
| Exit Conference | 18 |

SCHEDULE OF OFFICIALS

| <u>Office</u> | <u>Official</u> | <u>Term</u> |
|--|---------------------------------|----------------------|
| Clerk-Treasurer | Kelly White Gibson | 01-01-21 to 12-31-23 |
| President of the Town Council | Rick Bella | 01-01-21 to 12-31-23 |
| Town Court Judge | The Honorable Eugene M. Velazco | 01-01-21 to 12-31-23 |
| President of the Redevelopment Commission | Shawn Pettit | 01-01-21 to 12-31-23 |



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF THE TOWN OF MERRILLVILLE, LAKE COUNTY, INDIANA

This report is supplemental to the audit report of the Town of Merrillville (Town), for the period from January 1, 2021 to December 31, 2022. It has been provided as a separate report so that the reader may easily identify any Audit Results and Comments that pertain to the Town. It should be read in conjunction with the Financial Statement Audit Report of the Town, which provides our opinions on the Town's financial statement. 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.

Beth Kelley, CPA, CFE
Deputy State Examiner

November 1, 2023

(This page intentionally left blank.)

CLERK-TREASURER
TOWN OF MERRILLVILLE

CLERK-TREASURER
TOWN OF MERRILLVILLE
AUDIT RESULTS AND COMMENTS

INTERNAL CONTROLS

A similar comment appeared in the prior Reports B49987, B56171, and B58320, entitled *FINANCIAL TRANSACTIONS AND REPORTING* or *INTERNAL CONTROLS*.

Condition and Context

There were deficiencies in the internal control system of the Town related to cash, financial transactions, and reporting.

Cash and Financial Reporting

Audit procedures determined that a bank account of the Town related to a 2012 Broadway TIF project was omitted by the Town from its ledger, bank reconciliations, and Annual Financial Report. The omission of this bank account by the Town understated the cash and investments balance at December 31, 2021 and 2022, by \$368,561 and \$368,597 respectively.

Financial Transactions and Reporting

The Town did not have effective internal controls in place over financial reporting. The Town entered and electronically submitted the financial information into the Indiana Gateway for Government Units financial reporting system, which was the source of the financial statement. The lack of effective internal controls resulted in the following financial statement errors:

1. The Town posted various property tax settlement proceeds incorrectly in 2021 to a Miscellaneous General fund account and subsequently removed the funds and receipted the funds to the proper funds/accounts. The Town, however, did not adjust receipts or disbursements for this material correction and overstated General fund receipts and disbursements on the Annual Financial Report (AFR) by \$8,050,858 in 2021.
2. The disbursement total reported in the AFR for 2022 did not agree to the ledger amount and the Town was unaware why the amount reported in the AFR did not agree to the ledger. The disbursements and ending cash and investments balance were understated by \$233,962 in 2022 on the AFR.

Audit adjustments were proposed for the amounts noted above under *Financial Transactions and Reporting*, accepted by the Town, and made to the financial statement and Combining Schedules of Receipts, Disbursements, and Cash and Investment Balances - Regulatory Basis presented as Required Supplementary Information in the Financial Statement Audit Report of the Town.

Criteria

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

"The state examiner shall require from every audited entity 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](#)."

CLERK-TREASURER
TOWN OF MERRILLVILLE
AUDIT RESULTS AND COMMENTS
(Continued)

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

All financial transactions pertaining to the unit must be recorded in the records of the unit at the time of the transaction. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

CONTRACTS

Condition and Context

The Town awarded a \$3,474,254 contract for 2021 paving projects on March 19, 2021. The payments on the contract exceeded the original contract amount by \$886,812, or 26 percent. Change orders were not submitted or approved for these payments in excess of the original contract.

The Town awarded a \$4,963,183 contract for 2022 paving projects on April 4, 2022; however, upon review of the contract documents and payment activity, payments exceeded the original contract amount by \$794,682. Change orders were not approved for these amounts in excess of the original contract over payments. Change orders must be approved by the Town Council and the contractor.

Criteria

Indiana Code 36-1-12-18 states:

"(a) If, in the course of the construction, reconstruction, or repair of a public work project, it becomes necessary to change or alter the original specifications, a change order may be issued to add, delete, or change an item or items in the original contract. The change order becomes an addendum to the contract and must be approved and signed by the board and the contractor.

CLERK-TREASURER
TOWN OF MERRILLVILLE
AUDIT RESULTS AND COMMENTS
(Continued)

(b) If a licensed architect or engineer is assigned to the public work project, the change order must be prepared by that person.

(c) A change order may not be issued before commencement of the actual construction, reconstruction, or repairs except in the case of an emergency. In that case, the board must make a declaration, and the board's minutes must show the nature of the emergency.

(d) The total of all change orders issued that increase the scope of the project may not exceed twenty percent (20%) of the amount of the original contract. A change order issued as a result of circumstances that could not have been reasonably foreseen does not increase the scope of the project.

(e) All change orders must be directly related to the original public work project.

(f) If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those shown in the original contract."

Payments made or received for contractual services must be supported by a written contract. Each unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

MOTOR VEHICLE HIGHWAY (MVH) - RESTRICTED FUND

A similar comment appeared in prior Report B56171, entitled *MOTOR VEHICLE HIGHWAY - RESTRICTED FUND*, and in prior Report B58320, entitled *MOTOR VEHICLE HIGHWAY (MVH) RESTRICTED*.

Condition and Context

In 2021 and 2022, the Town disbursed \$45,749 and \$41,561, respectively, into MVH Restricted funds for payroll to MVH employees, including the secretary, engineer, and superintendent's wages. The Town had no documentation that determined if the amount expended was directly associated with the construction, reconstruction, and preservation of the Town's highways.

In 2021 and 2022, the Town disbursed \$5,349 and \$17,652, respectively, for materials to patch roadways. Patching is considered a maintenance activity and not allowable or directly associated with the construction, reconstruction, and preservation of the Town's highways.

Criteria

Indiana Code 8-14-1-5(c) states: "For funds distributed to a city or town from the motor vehicle highway account, the city or town shall use at least fifty percent (50%) of the money for the construction, reconstruction, and preservation of the city's or town's highways."

CLERK-TREASURER
TOWN OF MERRILLVILLE
AUDIT RESULTS AND COMMENTS
(Continued)

ANNUAL FINANCIAL REPORT

Condition and Context

Financial, supplementary, and other information are required to be entered annually into the Annual Financial Report via the Indiana Gateway for Government Units financial reporting system. The Town was not in compliance as follows:

Capital Assets

Capital assets were not reported by the Town for inclusion as Other Information in the Financial Statement Audit Report of the Town.

Leases and Debt

1. The annual lease payment for the 2014 Lease Rental Revenue Bonds was understated by \$1,157,000.
2. Various other errors were noted related to debt reporting as follows:
 - a. Three Economic Development Revenue Bonds issued in 2022 were omitted.
 - b. The 2015 RDC bond, which was paid off in 2021, was reported as outstanding.
 - c. The 2019 RDA Lease Rental Revenue Bonds and the 2021 Mississippi St TIF Debt Service over reported ending principal balance.
 - d. The Redevelopment Authority 2014 Lease Rental Revenue Bonds were omitted.
 - e. There was \$9,940,000 in the Merrillville Building Corporation bonded debt included in error.

The various debt errors understated the ending principal balance and principal due within one year by \$14,750,000 and \$540,000, respectively.

Adjustments were proposed, approved by the Town, and made to the Schedule of Leases and Debt presented as Other Information in the Financial Statement Audit Report of the Town.

Criteria

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

"The state examiner shall require from every audited entity 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](#)."

CLERK-TREASURER
TOWN OF MERRILLVILLE
EXIT CONFERENCE

The contents of this report were discussed on November 1, 2023, with Rick Bella, President of the Town Council; Richard Hardaway, Town Council member; Kelly White Gibson, Clerk-Treasurer; Joi Whiteside, Office Manager; Oralia Santos, Bookkeeper; Michael W. Griffin, interim Town Manager; and Trista A. Hudson, Financial Advisor.

TOWN COURT
TOWN OF MERRILLVILLE

TOWN COURT
TOWN OF MERRILLVILLE
AUDIT RESULT AND COMMENT

INTERNAL CONTROLS

A similar comment appeared in the prior Report B49987, entitled *BANK ACCOUNT RECONCILIATIONS*, and Reports B56171 and B58320, entitled *INTERNAL CONTROLS*.

Condition and Context

There were several deficiencies in the internal control system of the Town Court related to financial transactions and reporting. There was a lack of segregation of duties as the Town Court had not separated incompatible activities related to cash and investments and financial close and reporting. There were no documentable internal controls to ensure the accuracy and timeliness of the record keeping and reporting functions.

Cash and Investments (Bank Reconcilements)

The Town Court (Court) previously used *Court View* (a cash management and financial software program) and manual trust registers to process and post the Court's financial transactions. In 2019, the Court converted to a new *Odyssey* software system. For the conversion of the new software system, the Court ceased using the old bank account and transferred the operating cash and investment balance to a new bank account. The old bank account remained open, and a balance remained in the old bank account for trust balances that have not yet been moved into the new software system from the manual trust registers related to the old *Court View* software system.

Court View

The Court had not totaled the manual trust ledger or reconciled the manual trust ledger to the Court View bank balance. The bank balance of the Court View bank account at December 31, 2021 and 2022, was \$115,967 and \$107,776, respectively.

Odyssey

The Court had not posted timely adjustments or corrections in the Odyssey software system for reconciling items from the bank reconciliation. For example, the Court has carried a \$47,456 adjustment on the reconciliation since December 31, 2020. Although the Court had corresponded with the state on obtaining reimbursement to correct the account for an overpayment as of November 28, 2022, the Court had not provided the state with the documentation needed to obtain a reimbursement as of September 20, 2023.

Financial Close and Reporting

The cash balances for the Court View Trust account were not reported by the Town in the Annual Financial Report. As a result, the reported cash balances of the Court were understated at December 31, 2021 and 2022, by \$115,967 and \$107,776, respectively.

TOWN COURT
TOWN OF MERRILLVILLE
AUDIT RESULT AND COMMENT
(Continued)

Criteria

Indiana Code 5-13-6-1(e) states: "All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories."

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

"The state examiner shall require from every audited entity 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](#)."

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

TOWN COURT
TOWN OF MERRILLVILLE
EXIT CONFERENCE

The contents of this report were discussed on October 30, 2023, with The Honorable Eugene M. Velazco, Town Court Judge, and Chanda Scott-Flowers, Chief Administrative Officer.

The contents of this report were discussed on November 1, 2023, with Rick Bella, President of the Town Council; Richard Hardaway, Town Council member; Kelly White Gibson, Clerk-Treasurer; Joi Whiteside, Office Manager; Oralia Santos, Bookkeeper; Michael W. Griffin, interim Town Manager; and Trista A. Hudson, Financial Advisor.

REDEVELOPMENT COMMISSION
TOWN OF MERRILLVILLE

REDEVELOPMENT COMMISSION
TOWN OF MERRILLVILLE
AUDIT RESULT AND COMMENT

TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES

A similar comment appeared in the prior Report B58320, entitled *TAX INCREMENT FINANCING (TIF) ALLOCATION FUND USES*.

Condition and Context

A Redevelopment Commission has the duties set forth in Indiana Code 36-7-14-11, which provides for the investigation, selection, acquisition development, and disposal of property in "areas needing redevelopment." The powers granted to a redevelopment commission in Indiana Code 36-7-14-12.2 allow the commission to develop property in the areas needing redevelopment and to carry out other activities "for redevelopment purposes." "Redevelopment" includes activities contained in Indiana Code 36-7-1-18.

The expenses noted below from Tax Increment Financing (TIF) allocation funds were not within the restricted uses authorized in Indiana Code 36-7-14-39(b)(3) (West. 2022):

1. Legal services for the creation of a new TIF Districts in the amount of \$24,443.
2. Payments totaling \$22,260 on a contract between the Town and the Gary Public Transportation Corporation for the provision of bus service.
3. Lawn maintenance and lawn mowing expenses of \$9,226.
4. Concrete curbs and gutters for work completed outside any TIF areas totaling \$11,451.

Additionally, the following expense was within the restricted uses authorized in Indiana Code 36-7-14(b)(3); but was not paid from the correct TIF Allocation fund. The Town remodeled their main conference room in Town Hall, which is located in the Broadway TIF District. The payments for the renovations, totaling \$139,140, were paid from the Miss St TIF project fund.

Criteria

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:

- (A) Pay the principal of and interest on any obligations payable solely from allocated tax proceeds which are incurred by the redevelopment district for the purpose of financing or refinancing the redevelopment of that allocation area.
- (B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area.
- (C) Pay the principal of and interest on bonds payable from allocated tax proceeds in that allocation area and from the special tax levied under section 27 of this chapter.
- (D) Pay the principal of and interest on bonds issued by the unit to pay for local public improvements that are physically located in or physically connected to that allocation area.

REDEVELOPMENT COMMISSION
TOWN OF MERRILLVILLE
AUDIT RESULT AND COMMENT
(Continued)

(E) Pay premiums on the redemption before maturity of bonds payable solely or in part from allocated tax proceeds in that allocation area.

(F) Make payments on leases payable from allocated tax proceeds in that allocation area under section 25.2 of this chapter.

(G) Reimburse the unit for expenditures made by it for local public improvements (which include buildings, parking facilities, and other items described in section 25.1(a) of this chapter) that are physically located in or physically connected to that allocation area.

(H) Reimburse the unit for rentals paid by it for a building or parking facility that is physically located in or physically connected to that allocation area under any lease entered into under [IC 36-1-10](#).

(I) For property taxes first due and payable before January 1, 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the redevelopment commission. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in [IC 6-1.1-1-20](#)) that contains all or part of the allocation area: . . .

(J) 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.

(K) Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

- (i) in the allocation area; and
- (ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance. . . .

(L) Pay the costs of carrying out an eligible efficiency project (as defined in [IC 36-9-41-1.5](#)) within the unit that established the redevelopment commission. However, property tax proceeds may be used under this clause to pay the costs of carrying out an eligible efficiency project only if those property tax proceeds exceed the amount necessary to do the following: . . .

(M) Expend money and provide financial assistance as authorized in section 12.2(a)(27) of this chapter.

The allocation fund may not be used for operating expenses of the commission."

The uses of TIF funds are restricted to those set forth in the Indiana Code. The power of a redevelopment commission to expend such funds is limited to the express statutory powers as set forth in Indiana Code 36-7-14. The use of TIF funds for ongoing maintenance of redeveloped property is not an expressly or impliedly permitted use, except as provided in Indiana Code 36-7-1-18(7) for repairing and maintaining buildings acquired before redevelopment is complete. (Redevelopment Commission of the Town of Munster, Indiana, v. Indiana State Board of Accounts and Paul D. Joyce, State Examiner of State Board of Accounts, 28 N.E.3d 272 (Ind. App., 2015) trans. denied, 34 N.E.3d 251)

REDEVELOPMENT COMMISSION
TOWN OF MERRILLVILLE
EXIT CONFERENCE

The contents of this report were discussed on November 1, 2023, with Rick Bella, President of the Town Council; Richard Hardaway, Town Council member; Kelly White Gibson, Clerk-Treasurer; Joi Whiteside, Office Manager; Oralia Santos, Bookkeeper; Michael W. Griffin, Interim Town Manager; and Trista A. Hudson, Financial Advisor.