

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

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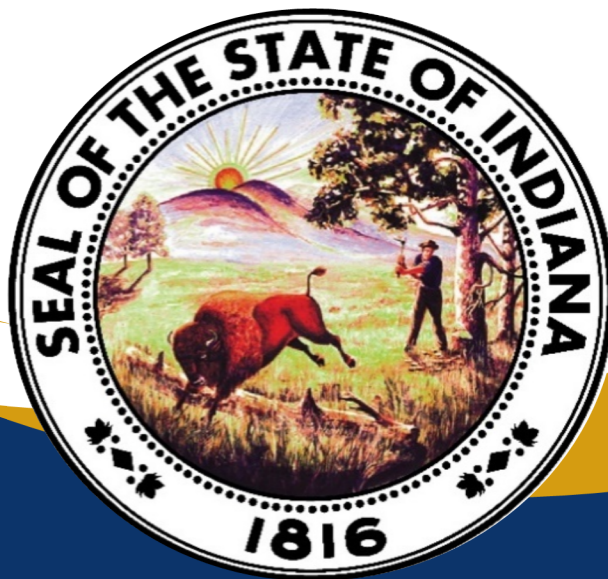
SPECIAL INVESTIGATION REPORT

OF

TOWN OF BROOKLYN

MORGAN COUNTY, INDIANA

January 1, 2013 to March 31, 2024



FILED

01/27/2025

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INDIANA STATE BOARD OF ACCOUNTS

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TO: THE OFFICIALS OF THE TOWN OF BROOKLYN, MORGAN COUNTY, INDIANA

This is a special investigation report for the Town of Brooklyn (Town), for the period January 1, 2013 to March 31, 2024, and is in addition to any other report for the Town as required under Indiana Code 5-11-1. All reports pertaining to the Town may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with Internal Revenue Service transcripts and payments. The 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 Results and Comments, incorporated within this report, was not verified for accuracy.

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

October 1, 2024

TOWN OF BROOKLYN
RESULTS AND COMMENTS

BACKGROUND

On August 19, 2024, the Indiana State Board of Accounts (SBOA) became aware of an anonymous letter that was circulating in the Town that was addressed to "Town Resident," which alleged that the Town had incurred a penalty from the Internal Revenue Service (IRS) of \$48,000 and the Town was facing further penalty. The letter also claimed that the total cost to the Town was more than \$100,000. The SBOA contacted Town officials and confirmed that the Town had incurred penalties and interest from the IRS.

Prior to the circulation of this letter, on February 18, 2024, Karen Howard-Frentress (Howard-Frentress), Clerk-Treasurer, contacted the SBOA and reported that the Town was facing penalty from the IRS resulting in a lien being placed against the Town in accordance with Indiana Code 5-11-1-27.

Howard-Frentress has been serving as Clerk-Treasurer since January 1, 2012. Her current term is set to end on December 31, 2025.

The SBOA opened a special investigation into the penalties, interest, and other charges incurred by the Town. The following describes noncompliance with the Indiana Code and/or the *Accounting and Uniform Compliance Guidelines Manual for Cities and Towns*.

INTERNAL REVENUE SERVICE: PEALTIES, INTEREST, AND COLLECTION FEE

Although not specifically in reference to penalties and interest relating to late tax payments, a similar comment appeared in prior Indiana State Board of Accounts (SBOA) Report B59227, which addressed fees incurred by the Town for untimely vendor payments.

The SBOA examined quarterly transcripts from the Internal Revenue Service (IRS) from January 1, 2013 to March 31, 2024, and documented penalties, interest, and collection fees. In total, the Town incurred \$103,265.03 in penalties, interest, and collection fees as follows:

Type	Tax Period	Penalties	Interest	Collection Fees	Total
941	Q1-2013	\$ 3.52	\$ 0.73	\$ -	\$ 4.25
CIVIL PEN	Q4-2013	37,484.04	14,459.82	-	51,943.86
941	Q4-2013	427.10	24.36	-	451.46
941	Q2-2014	705.16	12.47	50.00	767.63
941	Q1-2016	97.53	200.80	-	298.33
941	Q2-2016	166.98	330.06	-	497.04
941	Q3-2017	65.65	106.85	-	172.50
941	Q4-2017	648.12	1,078.11	-	1,726.23
941	Q1-2018	5,089.33	2,013.28	-	7,102.61
941	Q2-2018	4,709.66	1,780.76	-	6,490.42
941	Q3-2018	4,662.30	1,682.38	-	6,344.68
941	Q4-2018	4,577.44	1,568.56	-	6,146.00
941	Q1-2019	4,688.99	1,511.41	-	6,200.40
941	Q2-2019	4,527.65	1,360.86	-	5,888.51
941	Q3-2019	4,547.11	1,323.86	-	5,870.97
941	Q3-2021	876.32	539.79	-	1,416.11
941	Q3-2023	843.91	157.38	-	1,001.29
941	Q4-2023	328.79	2.02	-	330.81
941	Q1-2024	585.22	26.71	-	611.93
Totals		\$ 75,034.82	\$ 28,180.21	\$ 50.00	\$ 103,265.03

LEGEND

Covered by April 9, 2024 Payment
Covered by overpayment credits transferred
Covered by September 18, 2024 Payment

TOWN OF BROOKLYN
RESULTS AND COMMENTS
(Continued)

On January 16, 2017, the Town was assessed with a penalty of \$37,484.04 for "Intentional Disregard, Failure to File W-2's" for the tax period ending December 31, 2013 (Q4-2013 CIV Penalty on chart). On April 4, 2019, the transcripts show that a "lien was placed on assets due to balance owed." The lien, which was placed on the Town's sewer utility, went unnoticed by the Town until January of 2024. At this time, the Town hired a CPA Firm to file all necessary forms with the IRS that were outstanding.

During a phone call with Howard-Frentress on August 22, 2024, when asked if she received notices from the IRS, she stated that she had, and she hadn't given them enough attention. She stated that this [Late IRS Filings] was her fault and was a result of negligence of her duties.

On April 9, 2024, the civil penalty from quarter four of 2013 was paid off, as well as, the interest that had accumulated in the amount of \$48,786.86 via cashier's check. On September 18, 2024, the Town paid the remaining balance due to the IRS totaling \$52,700.80 via cashier's check. Below is a breakdown of the two payments:

Payment Info		Breakdown of Payment			
Date	Amount	Tax Base	Penalties	Interest	Transferred Credits
April 9, 2024	\$ 48,786.86	\$ -	\$ 37,484.04	\$ 14,459.82	\$ (3,157.00)
September 28, 2024	52,700.80	4,513.58	35,170.83	13,016.39	-

The remaining \$3,133.95 in penalties, interest, and collection fees was covered by tax deposit overpayment credits from periods where tax overpayments were made. These credits were transferred by the IRS to cover periods that had a balance of penalties and interest, rather than a refund be issued.

Other types of penalties and interest incurred and paid from the IRS included the following:

- Penalties for filing tax return after due date.
- Penalties for late payment of tax.
- Federal tax deposit penalties.
- Interest on late payments.

Indiana Code 36-5-6-2 states: "Except as provided in [IC 36-5-6.5](#), the clerk-treasurer elected under this chapter is both the town clerk and the town fiscal officer."

Indiana Code 36-5-6-6(b) states:

"The clerk-treasurer shall do the following:

- (1) Receive and care for all town money and pay the money out only on order of the town legislative body.
- (2) Keep accounts showing when and from what sources the clerk-treasurer has received town money and when and to whom the clerk-treasurer has paid out town money.
- (3) Prescribe payroll and account forms for all town offices.
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (5) Manage the finances and accounts of the town and make investments of town money.

TOWN OF BROOKLYN
RESULTS AND COMMENTS
(Continued)

- (6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.
- (7) Maintain custody of the town seal and the records of the legislative body.
- (8) Issue all licenses authorized by statute and collect the fees fixed by ordinance.
- (9) Serve as clerk of the legislative body by attending its meetings and recording its proceedings.
- (10) Administer oaths, take depositions, and take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.
- (11) Serve as clerk of the town court under [IC 33-35-3-2](#), if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under [IC 33-35-3-1](#).
- (12) Perform all other duties prescribed by statute."

Officials and employees have the duty to pay claims and remit taxes in a timely fashion. Failure to pay claims or remit taxes in a timely manner could be an indicator of serious financial problems which should be investigated by the unit. 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 unit. Any penalties, interest, or other charges paid by the unit may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

The SBOA requests Howard-Frentress to reimburse the Town \$103,265.03 for the IRS penalties, interest, and collection fees. (See Summary of Charges, page 9)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred additional audit costs due to the special investigation of the Town's records.

Indiana Code 5-11-1-27(m) states in part:

"If the attorney general institutes civil proceedings related to this section or under [IC 5-11-5-1](#), the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of:

- (1) costs incurred by the state board of accounts; . . ."

Audit costs incurred because of poor records, nonexistent records or any other inadequate bookkeeping practices, or because of theft or a shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 1)

We requested Howard-Frentress to reimburse the State of Indiana \$9,945.20 for special investigation costs. (See Summary of Charges, page 9)

TOWN OF BROOKLYN
RESULTS AND COMMENTS
(Continued)

INTERNAL CONTROLS

Similar comments regarding missed deadlines and late payments also appeared in prior State Board of Accounts (SBOA) Reports B51148, B51178, and B59227, respectively.

The Town did not implement effective internal controls on being in compliance with all the Internal Revenue Service's (IRS) filing and payment requirements. The Town incurred additional costs due to the IRS during the period examined by the SBOA for the following reasons:

- Intentional Disregard, Failure to File W-2's in 2013.
- Penalties for filing tax return after due date.
- Penalties for late payment of tax.
- Federal tax deposit penalties.
- Collection fee on a penalty.
- Interest on late payments.

Over time, the Town continuously incurred penalties and did not pay them timely. This allowed for the interest on the penalties to steadily increase. There was no evidence provided to the SBOA that the Town made attempts to contact the IRS or make payments on the penalties prior to the lien being placed on the Town's sewer utility.

This caused the Town to incur penalties, interest, and collection fee totaling \$103,265.03.

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. . . ."

INSURANCE AND BOND COVERAGE

The following information comes from insurance coverage and bond coverages for Howard-Frentress obtained by Town:

TOWN OF BROOKLYN
RESULTS AND COMMENTS
(Continued)

Insurance:

<u>Coverage Period</u>	<u>Coverage</u>
07-28-13 to 07-28-14	\$ 2,000,000
07-28-14 to 07-28-15	2,000,000
07-28-15 to 07-28-16	2,000,000
07-28-16 to 07-28-17	2,000,000
07-28-17 to 07-28-18	2,000,000
07-28-18 to 07-28-19	2,000,000
07-28-19 to 07-28-20	2,000,000
07-28-20 to 07-28-21	2,000,000
07-28-21 to 07-28-22	2,000,000
07-28-22 to 07-28-23	2,000,000
07-28-23 to 07-28-24	2,000,000

Bond A:

<u>Coverage Period</u>	<u>Coverage</u>
01-01-13 to 12-31-13	\$ 65,000
01-01-14 to 12-31-14	65,000
01-01-15 to 12-31-15	65,000
01-01-16 to 12-31-16	30,000
01-01-17 to 12-31-17	30,000
01-01-18 to 12-31-18	30,000
01-01-19 to 12-31-19	30,000
01-01-20 to 12-31-20	30,000
01-01-21 to 12-31-21	30,000
01-01-22 to 12-31-22	30,000
12-31-22 to 12-31-23	30,000

Bond B:

<u>Coverage Period</u>	<u>Coverage</u>
07-12-11 to 07-12-14	\$ 20,000
07-01-14 to 07-01-17	20,000
07-01-17 to 07-01-20	20,000
07-01-20 to 07-01-23	20,000
07-01-23 to 07-01-26	20,000

TOWN OF BROOKLYN
EXIT CONFERENCE

The contents of this report were discussed on December 17, 2024, with Karen Howard-Frentress, Clerk-Treasurer, and Barbara Lowhorn, Town Council member.

TOWN OF BROOKLYN
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
Karen Howard-Frentress, Clerk-Treasurer:			
Internal Revenue Service: Penalties, Interest, and Collection Fees, pages 3 through 5	\$ 103,265.03	\$ -	\$ 103,265.03
Special Investigation Costs, page 5	<u>9,945.20</u>	<u>-</u>	<u>9,945.20</u>
Totals	<u>\$ 113,210.23</u>	<u>\$ -</u>	<u>\$ 113,210.23</u>

This report was forwarded to the Office of the Indiana Attorney General and the local prosecuting attorney.



