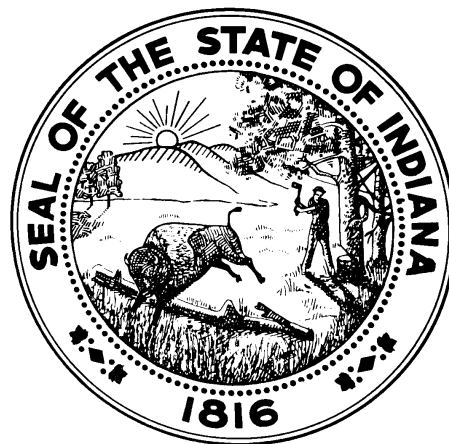


STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

AUDIT REPORT
OF

CITY CONTROLLER
CITY OF SOUTH BEND
ST. JOSEPH COUNTY, INDIANA

January 1, 2007 to December 31, 2007



FILED
08/27/2008

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CITY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Controller	M. Catherine Fanello John H. Murphy (Interim) M. Catherine Fanello	04-18-05 to 10-04-07 10-05-07 to 03-02-08 03-03-08 to 12-31-11
Mayor	Stephen J. Luecke	01-01-04 to 12-31-11
President of the Board of Public Works	Gary Gilot	01-01-07 to 12-31-08
President of the Common Council	Timothy A. Rouse	01-01-07 to 12-31-08



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF SOUTH BEND

We have audited the records of the City Controller for the period from January 1, 2007 to December 31, 2007, 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 the City of South Bend for the year 2007.

STATE BOARD OF ACCOUNTS

June 12, 2008

CITY CONTROLLER
CITY OF SOUTH BEND
AUDIT RESULTS AND COMMENTS

OVERDRAWN CASH BALANCES

The cash balances of the Parking Garage Fund and Central Services Fund were overdrawn by \$448,783 and \$1,225,733, respectively, as of December 31, 2007. A similar audit exception has been included in many audit reports, the most recent being B30069.

The cash balance of any fund may not be reduced below zero. Routinely overdrawn funds could be an indicator of serious financial problems which should be investigated by the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

COLLECTION OF AMOUNTS DUE

The City overpaid its Blackthorn Golfcourse GPS lease to National City Commercial Capital. The lease agreement with National City shows the first monthly payment due May 1, 2005, and the last payment due April 1, 2010. On January 14, 2008, the City entered into a new GPS lease agreement with Prolink Solutions, LLC (lessor). The new lease agreement is effective December 31, 2007. The new lease agreement includes an amendment that states: "Upon the commencement of the New Lease Agreement, Lessor assumes all the City of South Bend, Indiana's contractual obligations under the Prior Lease Agreement and Lessor will provide that the Prior Lease Agreement be deemed paid in full and closed out and that all liens filed against the City of South Bend, Indiana for the Prior Lease Agreement be terminated."

From May 1, 2005 to December 31, 2007, the City paid National City the amounts due as shown on the payment schedule. The December 17, 2007, payment in the amount of \$5,101.58, which includes an \$850.00 maintenance fee, was due January 1, 2008. The City also paid National City \$5,101.58 on January 21, 2008, and \$5,101.58 on February 25, 2008. National City also billed the City for the April 1, 2008, payment.

During our audit we asked the City why the payments on the old lease continued in 2008. National City refunded \$5,101.58 to the City on April 9, 2008. This represents one of the two payments made by the City to National City in 2008. The City voided its check that it had issued for the April 1, 2008, payment. We asked that the City's legal department review the lease agreements and determine if the other 2008 payment made by the City should also be refunded.

Governmental units have a responsibility to collect amounts owed to the governmental unit pursuant to procedures authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

OVERPAYMENTS ON FIREFIGHTERS' PENSIONS

Overpayments of \$526.90 each were made to three retirees, and an overpayment of \$2,248.39 was made to one deceased retiree. The total amount of the overpayments is \$3,829.09.

Beginning July 1, 2007, the three retirees were paid an increased retirement pension for the cost of living increase as determined by PERF. All three retired during 2007. The \$526.90 overpayment includes the cumulative overpayments from July 1, 2007 through April 30, 2008. However, a fund member's or survivor's monthly benefit may not be increased or decreased under this section until July of the year following the year of the first monthly benefit payment to the fund member or survivor." (IC 36-8-8-18)

CITY CONTROLLER
CITY OF SOUTH BEND
AUDIT RESULTS AND COMMENTS
(Continued)

The pension secretary explained that he will reduce the pension payments for May and June 2008 to correct the overpayments to these three retirees. The deceased retiree was overpaid for one month and nine days after he passed away. The pension secretary has attempted to collect the overpayment from the deceased retiree's family and he may contact the City Attorney's office about this situation.

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

DEPOSITS

In numerous instances, police department receipts were deposited later than the next business day. During 2007, receipts were usually deposited weekly. In three instances, deposits were made 14 days after the previous deposit. Our detailed review of two of these instances show: receipts dated June 18 to June 29, \$37,709, including \$3,002 cash, were deposited June 29; and, receipts dated July 13 to July 27, \$35,646, including \$2,549 cash, were deposited July 27.

Indiana Code 5-13-6-1(d) states: "A city (other than a consolidated city) or a town shall deposit funds not later than the next business day following the receipt of the funds in depositories (1) selected by the city or town as provided in an ordinance adopted by the city or the town; and (2) approved as depositories of state funds."

ANNUAL REPORT

An annual report for 2007 was filed by the City Controller's office on April 11, 2008.

Indiana Code 5-3-1-3(a) states in part: "Within sixty (60) days after the expiration of each calendar year, the fiscal officer of each civil city and town in Indiana shall publish an annual report of the receipts and expenditures of the city or town . . ."

CAPITAL ASSET INVENTORY

The City of South Bend has not taken an inventory of capital assets during the fiscal year 2007, nor has it taken an inventory during the course of the audit.

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 Capital Assets Ledger. A complete inventory should be taken every year 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)

CITY CONTROLLER
CITY OF SOUTH BEND
AUDIT RESULTS AND COMMENTS
(Continued)

CONDITION OF RECORDS

There were numerous discrepancies on the City's capital asset records. These included: beginning balances not agreeing with last year's ending balances; assets not recorded on the Asset Register by location or recorded at an incorrect amount; depreciation not recorded or recorded at an incorrect amount; additions and deletions incorrectly reported; and one construction in progress for 2006 was deleted in 2007, instead of added as a capital asset.

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PUBLIC RECORDS RETENTION

The original Asset Register by Location Capital Asset listing for 2006 was not retained by the City and was not available for audit. The City was able to print a current version of the 2006 capital asset register. The current version does not equal the December 31, 2006, balance previously reported in the 2006 audit report. Possible explanations for this difference include assets transferred between departments and corrections or adjustments.

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, 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)

CITY CONTROLLER
CITY OF SOUTH BEND
EXIT CONFERENCE

The contents of this report were discussed on June 12, 2008, with Stephen J. Luecke, Mayor; M. Catherine Fanello, City Controller; and Timothy A. Rouse, President of the Common Council. The official response has been made a part of this report and may be found on pages 8 through 10.

COUNTY-CITY BUILDING
227 W. JEFFERSON BLVD.
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9216
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CITY OF SOUTH BEND STEPHEN J. LUECKE, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

M. CATHERINE FANELLO
CONTROLLER

June 25, 2008

State Board of Accounts
302 West Washington St., Room E 418
Indianapolis, IN 46204-2765

RE: OFFICIAL RESPONSE

To Whom It May Concern:

Please accept this letter as our official response to the audit comments concerning the Board of Public Works energy savings contract and the collection of amounts due for the Blackthorn lease.

Energy Savings Contract

The State Board of Accounts commented that the project included items not causally connected and that no cost itemization was provided to verify compliance with the 15% limitation. A letter from Johnson Controls is attached that does indeed confirm that the pre-emptor (red light hold) portion of the contract does not exceed 15% of the total value of the contract. The total contract amount, according to Johnson Controls, is \$1,480,000 and the cost of the pre-emptor portion of the contract is less than \$25,000.

Based on the facts provided by Johnson Controls, the City disagrees with the State Board on their audit finding and comment.

Collection of Amounts Due

The State Board commented that two lease payments should be refunded to the City because they were made in error and were not pursuant to the new lease agreement dated effective December 31, 2007. One lease payment was refunded by the original lessor. City Legal Department has reviewed the old lease agreement, and subsequent new lease

JANICE L. HALL
DIRECTOR
HUMAN RESOURCES

JOHN MURPHY
ASSISTANT CONTROLLER

ROBERT ALLEN
DIRECTOR
INFORMATION TECHNOLOGY

agreement, and is of the opinion the City is due no refund or payments based on current information provided. We believe the City has pursued this matter to the fullest extent.

Thank you for the opportunity to respond to your comments.

Sincerely,

A handwritten signature in black ink that reads "M. Catherine Fanello". The signature is written in a cursive, flowing style with a long horizontal flourish at the end.

M. Catherine Fanello, CPA



RECEIVED

June 13, 2008

JUN 16 2008

CITY OF SOUTH BEND
DIV. OF ENGINEERING

Mr. Rob Nichols
Engineering
City of South Bend
227 W. Jefferson
1300 County City Bld
South Bend, Indiana 46601

Re: *Questions on the contract from the Indiana State Board of Accounts*

Dear Rob:

This letter responds to your question from the State Board of Accounts regarding the item in the South Bend traffic signal LED performance contract dated 29 May 2007 (the "Contract"), specifically regarding the scope of work related to conservation measures and improvements not causally connected to the conservation measures as described in Indiana Code § 36-1-12.5.

Please note that the pre-emptor (red light hold) portion of the Contract cost does not exceed 15% of the total value of the Contract, thereby comporting with IC § 36-1-12.5-12. The total contract amount of the project is \$1,480,000, and the cost of the pre-emptor (red light hold) portion of the Contract is less than \$25,000.

In addition, the actuators about which you asked in emergency vehicles were not purchased in the Contract and are the sole responsibility of the fire, police and other first responders. I hope this answers your concerns. If you have any other questions, please feel free to contact me.

Best Regards,

A handwritten signature in black ink that reads "D.M. Peters". The signature is stylized with a large, circular initial "D" and a long, sweeping underline.

David M. Peters
Regional Solutions Manager