

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

AUDIT REPORT

OF

COUNTY AUDITOR

LAKE COUNTY, INDIANA

January 1, 2009 to December 31, 2009



FILED

01/07/2011

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Auditor	Peggy Holinga Katona	01-01-07 to 12-31-10
President of the County Council	Larry Blanchard Thomas O'Donnell	01-01-09 to 12-31-09 01-01-10 to 12-31-10
President of the Board of County Commissioners	Roosevelt Allen, Jr. Frances DuPey	01-01-09 to 12-31-09 01-01-10 to 12-31-10



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF LAKE COUNTY

We have audited the records of the County Auditor for the period from January 1, 2009 to December 31, 2009, 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 Lake County for the year 2009.

STATE BOARD OF ACCOUNTS

September 15, 2010

COUNTY AUDITOR
LAKE COUNTY
AUDIT RESULTS AND COMMENTS

PAYROLL REPORTING ISSUES

The County is in the process of undergoing an Internal Revenue Service (IRS) audit for the tax year 2007. The IRS has noted the following deficiencies:

1. Numerous county employees received a Wage and Tax Statement, Form W-2 for wages and a Form 1099-MISC, Miscellaneous Income, for other services provided to the County. Services provided and reported on a "1099 MISC" did not incur payroll tax withholdings and did not incur the related employer taxes. Examples of these are employees who were also paid for working elections, being board members, having additional court related duties, providing legal services, and performing other miscellaneous duties outside of the employee's normal County employment.
2. Sick pay paid to employees was not reported correctly on the employee's W-2 as taxable income.
3. Life insurance premiums for coverage in excess of \$50,000, provided to employees, are a taxable fringe benefit. This benefit was not properly reported on the employee's W-2.
4. The County did not maintain adequate records to document that the County had substantiated the employee's social security number or a contractor's tax identification number (TIN). Backup withholding (an adjustment to the payment to the vendor) is required when an employer can not substantiate the vendor's identification number.

The County is currently in the process of negotiating the tax, penalty, and interest due on these deficiencies.

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution or salary schedule 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 Counties of Indiana, Chapter 5)

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 Counties of Indiana, Chapter 1)

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 County Auditor's of Indiana, Chapter 14)

OFFICIAL BOND

The official bond for the County Auditor for 2009 was not filed in the Office of the County Recorder. The official bond coverage was for \$15,000; however, by statute, a minimum of \$30,000 was required as of July 1, 2009.

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(Continued)

IC 5-4-1-5.1(b) states in part:

"Every elected or appointed officer, official, deputy, or employee of a political subdivision who is required under section 18 of this chapter to file an official bond for the faithful performance of duty, except the county recorder and deputies, and employees of the recorder, shall file the bond in the office of the county recorder. . . ."

IC 5-4-1-18(c)(2) states in part: "County auditors shall file bonds that provide annual coverage of not less than thirty thousand dollars (\$30,000), as fixed by the fiscal body of the county."

APPROPRIATIONS

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

Fund	Excess Amount Expended
Circuit Breaker Debt Service (325)	\$ 474,980
Exempt Park Bond (316)	11,030
Juvenile Probation Administration (246)	492

IC 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."

OVERDRAWN CASH BALANCES

The cash balance of the General Fund and Circuit Breaker Debt Service Funds were overdrawn at December 31, 2009, by \$45,323,536 and \$474,980, respectively. The overdraft of the General Fund was primarily due to the delay in the billing and distribution of the 2008 pay 2009 property taxes, which were not distributed until 2010. The Circuit Breaker Debt Service Fund overdraft was due to the delay in reimbursement by a City for its share of the circuit breaker debt.

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 County Auditors of Indiana, Chapter 14)

APPROVAL AND CERTIFICATION OF CLAIMS

For claims that are deemed necessary to pay immediately, a check is manually issued for payment. The County's policy is that these claims require the signatures of two County Commissioners before a check can be issued. Of several claims we reviewed, one of the two signatures were signed or stamped by the Commissioner's Executive Secretary or assistant rather than the Commissioner. These claims are not submitted to or approved by the Board of Commissioners at a public meeting as required by statute.

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Petit Jury payrolls are ordered by the court to be paid through the claim process. These payrolls are not approved by the County Auditor, or filed on the applicable prescribed form.

IC (IC) 36-2-6-4 states in part:

"(b) Except as provided in section 4.5 of this chapter, the county executive may allow a claim or order the issuance of a county warrant for payment of a claim only at a regular or special meeting of the executive. The county auditor may issue a county warrant for payment of a claim against the county only if the executive or a court orders him to do so. However, this subsection does not apply to the issuance of warrants related to management of the common or congressional school fund. (c) The county executive may allow a claim if the claim: (1) complies with IC 5-11-10-1.6; and (2) is placed on the claim docket by the auditor at least five (5) days before the meeting at which the executive is to consider the claim. (d) A county auditor or member of a county executive who violates this section commits a Class C infraction."

The judge of each circuit, superior, probate, juvenile, criminal and county court is empowered to allow claims or vouchers of the court, including offices, departments and institutions under jurisdiction of the court, such as court administrator, probation department and juvenile detention center.

Claims or vouchers should be filed on the applicable prescribed claim or voucher forms listed on page 7-1 and should be itemized and verified in the same manner as other claims or vouchers against the county. The court's allowance should appear on the face of each claim or voucher in the space normally used by the board of county commissioners in allowing claims or vouchers. In some counties a form of court order or court allowance is used, listing claim or vouchers allowed by the court accompanied with supporting claims or vouchers and invoices, in lieu of each claim or voucher being individually allowed, and this procedure is acceptable. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

IC 5-11-10-2(a) states in part:

"Claims against a political subdivision of the state must be approved by the officer or person receiving the goods or services, be audited for correctness and approved by the disbursing officer of the political subdivision, and, where applicable, be allowed by the governing body having jurisdiction over allowance of such claims before they are paid. If the claim is against a governmental entity (as defined in section 1.6 of this chapter), the claim must be certified by the fiscal officer."

UNALLOWABLE EXPENDITURES - E911

Our review of E-911 disbursements found questionable expenditures for the following items in 2009:

1. A county government center information telephone line.
2. Office equipment such as a laptop and copier for 911 operations.
3. Progress billing for mapping of Lake County Parks Department.
4. Membership to National Emergency Number Association.

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5. Letters from Non-Public Safety Answering Point (PSAP) requesting their annual allotment of E-911 funds with no actual invoices attached.
6. Consultant to the Commissioners paid from 911 funds; however, invoices do not document any 911 work performed.

The questionable expenses totaled \$157,122.41, approximately 4% of the total \$3,781,459 Emergency 911 expenditures for Lake County.

IC 36-8-16-14 (a) states:

"(a) The emergency telephone system fees shall be used only to pay for:

- (1) the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system;
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and
- (5) an emergency telephone notification system under IC 36-8-21.

The legislative body of the unit may appropriate money in the fund only for such an expenditure."

IC 36-8-16.5-41(a) states:

"A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service."

911 FEES COMMINGLED

As noted in the prior report, the county receives money from phone companies for landline and wireless phone fees charged to consumers. These fees are to be deposited in separate funds on the County's records. These fees were all deposited in the same fund under 911 and were not separated as required by Indiana statute. On September 8, 2009, the County established a Wireless Emergency Telephone System Fund but did not begin using it until 2010.

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In addition, IC 36-8-16-14 and IC 36-8-16.5-41 indicate that specific disbursements can be made from landline fees and wireless fees. With all money comingled into one fund and disbursed from the same fund, we were unable to determine if disbursements were made from the correct fees collected.

IC 36-8-16-13 states:

"A county treasurer or municipal fiscal officer to whom enhanced emergency telephone system fees are remitted under section 12 of this chapter shall deposit the fees in a separate fund. The fund shall be known as the _____ (insert name of county or municipality) emergency telephone system fund. The county treasurer or municipal fiscal officer may invest money in the fund in the same manner that other money of the county or municipality may be invested. The county treasurer or municipal fiscal officer shall deposit any income earned from such an investment in the fund."

IC 36-8-16-14(a) states:

"The emergency telephone system fees shall be used only to pay for: (1) except as provided in subsection (c), the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning; (2) the rates associated with the service suppliers' enhanced emergency telephone system network services; (3) the personnel expenses of the emergency telephone system; (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and (5) an emergency telephone notification system under IC 36-8-21. The legislative body of the unit may appropriate money in the fund only for such an expenditure."

IC 36-8-16.5-43 states:

"The distribution of wireless emergency enhanced 911 funds by the board for cost recovery by PSAPs under section 39 of this chapter must be deposited by the county treasurer in a separate fund set aside for the purposes allowed by section 41 of this chapter. The fund must be known as the _____ (insert name of county) wireless emergency telephone system fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this section."

IC 36-8-16.5-41(a) states:

"A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including: (1) necessary computer hardware, software, and data base equipment; (2) personnel expense and training; (3) the provision of wireless enhanced emergency service; or (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service."

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TAX SALE SURPLUS FUNDS

Detail records of the tax sale surplus are not being properly maintained by the tax department. The detail listings of tax sale properties having a surplus balance do not agree to the County's ledger. Surplus claims generated by the tax sale department are not being posted when paid in the SRI system, the counties equivalent of Form 137 (Tax Sale Record). We noted numerous properties totaling \$1,357,903.01 listed on the 2009 tax sale surplus detail from the SRI system that had actually been paid in 2009 but not posted as of August 31, 2010.

No attempt was made at December 31, 2009, to reconcile the tax sale surplus funds by the tax department. Officials did not generate the appropriate detail reports from the SRI system at December 31, 2009, to properly reconcile the fund. We were told the SRI software is time sensitive and cannot be reprinted or recreated. At August 31, 2010, the SRI detail of Tax Sale Surplus properties total \$11,328,211.22. The amount reported in the Tax Surplus Fund per the County's ledger showed a balance of only \$848,104.38. The difference between the SRI detail and the County's ledger on August 31, 2010, was \$10,480,106.84.

There is a lack of internal controls when claims are generated by the tax sale department and not immediately updated to the tax sale record. This weakness over internal controls could allow for duplicate tax sale surplus payments to be made.

IC 6-1.1-25-8 states in part: "Each county auditor shall maintain a tax sale record on the form prescribed by the state board of accounts. The record shall contain:

- (8) the amount of any costs certified to the county auditor under section 2(e) of this chapter and the date of the certification;
- (9) the name of the person, if any, who redeems the property;
- (10) the date of redemption;
- (11) the amount for which the property is redeemed;"

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 County Auditors of Indiana, Chapter 14)

EXEMPTIONS AND DEDUCTIONS

A review of exemptions and deductions noted the following:

- (1) Age exemption affidavits on file in the County Auditor's office are not being completed annually. They were completed once and the tax returns attached to the affidavits were applicable to the date the affidavit was filed. Additionally, applications for blind and disabled exemptions are not being completed annually.

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- (2) Deduction and exemption amounts were not properly allowed. In two instances, taxpayers received exemptions and deductions for their property. However, the only applications on file for the property were under a previous owner's name. Several taxpayers reviewed were allowed exemptions; however, applications were not on file. Two of the taxpayers reviewed received mortgage exemptions; however, the recorder's office records document that the mortgages were satisfied in prior years (2005 and 2006). Applications for several taxpayers were filed after the taxpayer had already received the deductions and exemptions in prior years.
- (3) Supporting documentation was not provided for all deductions or exemptions allowed. In order to ensure accuracy and to reduce the potential for abuse, supporting documentation and applications should be retained.
- (4) In one instance tested, a taxpayer received a deduction for disability but the supporting documentation was insufficient to document compliance with statute. The supporting documentation was a doctor's note which did not document that the physician used the same standards as required by the Social Security Administration.
- (5) The applications reviewed for three taxpayers were prepared at the time we requested the applications.

IC 6-1.1-12-10.1 states in part:

"Persons over 65 or surviving spouse; filing claim . . . (a) With respect to real property, the statement must be filed during the year for which the individual wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction."

IC 6-1.1-12-10.1(c) states in part:

". . . a copy of the applicant's and a copy of the applicant's spouse's income tax returns for the preceding calendar year. If either was not required to file an income tax return, the applicant shall subscribe to that fact in the deduction statement."

IC 6-1.1-12-11 states in part:

"Deduction for blind or disabled person . . . (a)(3) the individual's taxable gross income for the calendar year preceding the year in which the deduction is claimed did not exceed seventeen thousand dollars (\$17,000)"

IC 6-1.1-12-11(f) states in part:

"An individual with a disability not covered under the federal Social Security Act shall be examined by a physician and the individual's status as an individual with a disability determined by using the same standards as used by the Social Security Administration."

IC 6-1.1-12-37 states in part:

"Standard deduction for homesteads . . . (e) an individual who desires to claim the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is located."

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IC 6-1.1-12-1 states in part:

"Deduction for property financed by mortgage . . . (b) the total amount of the deduction which the person may receive under this section for a particular year is:

- (1) the balance of the mortgage or contract indebtedness on the assessment date of that year;
- (2) one-half (1/2) of the assessed value of the real property, mobile home, or manufactured home; or
- (3) three thousand dollars (\$3,000); whichever is least."

Governmental units should have internal controls in effect which provide reasonable assurance regarding the reliability of financial information and records, effectiveness and efficiency of operations, proper execution of management's objectives, and compliance with laws and regulations. Among other things, segregation of duties, safeguarding controls over cash and all other assets and all forms of information processing are necessary for proper internal control. (Accounting and Uniform Compliance Guidelines for County Auditors of Indiana, Chapter 14)

Officials and employees are required to use State Board of Accounts prescribed or approved forms in the manner prescribed. (Accounting and Uniform Compliance Guidelines for County Auditors of Indiana, Chapter 14)

CERTIFICATES OF ERROR

The following deficiencies were noted when reviewing the certificates of error:

- (1) The prescribed form 127CE, Certificate of Error, is not being used to document the corrections to taxes charged.
- (2) In several instances, the claim for homestead property tax credit/standard deduction form reviewed lacked approval by officials for the corrections.
- (3) In some instances, the department was unable to locate documentation indicating the reason for the certificate of error.

IC 6-1.1-15-12 states in part:

"(a)(8) Through an error of omission by any state or county officer, the taxpayer was not given credit for an exemption or deduction permitted by law. (b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when the county auditor finds that the error exists. (c) If the tax is based on an assessment made or determined by the department of local government finance, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the department of local government finance or ordered by the tax court. (d) If the tax is not based on an assessment made or determined by the department of local government finance, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

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- (1) The township assessor (if any).
- (2) The county auditor.
- (3) The county assessor.

If two (2) of these officials do not approve such a correction, the county auditor shall refer the matter to the county board for determination. The county board shall provide a copy of the determination to the taxpayer and to the county auditor. (e) A taxpayer may appeal a determination of the county board to the Indiana board for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The Indiana board shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor (if any). (f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor."

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 County Auditors of Indiana, Chapter 14)

PRESCRIBED FORMS

The Auditor's office is using an Excel spreadsheet (commercially sold computer software) to account for tax sales and redemptions. This spreadsheet has not been approved by the State Board of Accounts. The prescribed and approved form for the accounting of tax sales and redemptions is Form 137, Tax Sale Record. This was a comment in the prior report.

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 Counties of Indiana, Chapter 9)

CONGRESSIONAL SCHOOL FUNDS

Investments are made from the Congressional School Principal Fund 560. The investment interest, deposited into the Congressional School Interest Fund 561, is to be distributed annually to the school corporations. During 2009, no distributions were made to the schools as required by statute.

IC 20-42-2-7 states:

"Annual distribution of balance to school corporations Sec. 7. The county auditor of each county or the treasurer of state shall, semiannually, on the second Monday of July and on the last Monday in January make apportionment of the amount of the congressional township school revenue belonging to each school corporation. The apportionment shall be paid to each school corporation's treasurer."

Congressional School Fund interest should be distributed to the school corporations at the rate of four percent (4%) per annum. There is no statutory authority to distribute congressional school interest in excess of the four percent (4%) per annum or to transfer any excess in the fund to the County General Fund. (The County Bulletin and Uniform Compliance Guidelines, April 2000)

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EXIT CONFERENCE

The contents of this report were discussed on September 22, 2010, with Peggy Holinga Katona, Auditor; Larry Cak, Executive Director; and Michael Wieser, Director of Finance.