

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

AUDIT REPORT
OF
COUNTY AUDITOR
PORTER COUNTY, INDIANA
January 1, 2010 to December 31, 2010



FILED
10/24/2011

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Auditor	James K. Kopp Robert J. Wichlinski	01-01-07 to 12-31-10 01-01-11 to 12-31-14
President of the County Council	Daniel Whitten	01-01-10 to 12-31-11
President of the Board of County Commissioners	Robert Harper John Evans	01-01-10 to 12-31-10 01-01-11 to 12-31-11



STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF PORTER COUNTY

We have audited the records of the County Auditor for the period from January 1, 2010 to December 31, 2010, 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 Porter County for the year 2010.

STATE BOARD OF ACCOUNTS

June 30, 2011

COUNTY AUDITOR
PORTER COUNTY
AUDIT RESULTS AND COMMENTS

INTERNAL REVENUE SERVICE AUDIT

The Internal Revenue Service (IRS) audited the County's records for 2007, 2008, and 2009. The result of that audit disclosed the following:

1. Several individuals were paid for contractual services that the IRS determined the individuals to be employees and subject to payroll tax and withholding.
2. Election workers, that are also County employees, should have all compensation paid, including election work, subject to payroll tax and withholding.
3. Compensation to Board members, County Fair Security Officers, and other employees that received miscellaneous stipends is subject to payroll tax and should be reported on form W-2.
4. Backup withholding rules apply to the payments to vendors. The County should have form W-9 on file prior to payments made to the vendors.
5. Personal use of take home County vehicles should be properly calculated and reported on form W-2, and subject to payroll tax and withholding.

On January 28, 2011, the County remitted \$96,079.87 to the IRS in settlement for the taxes and penalties assessed as a result of the audit.

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 County Auditors of Indiana, Chapter 18)

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action. (Accounting and Uniform Compliance Guidelines Manual for Auditors, Chapter 14)

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 governmental 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 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 Auditors of Indiana, Chapter 14)

COUNTY AUDITOR
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

PENALTIES AND INTEREST

Penalties and interest totaling \$337.13 were assessed and paid to the credit card company used on behalf of the Memorial Opera House in the year 2010.

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 governmental 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 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 Auditors of Indiana, Chapter 14)

EMPLOYEE SERVICE RECORDS

The County maintains Employee Service Records (General Payroll Form 99A) which serve as the employee's time card and absence summary. The absence summary portion, when completed, only documents the amount of the sick, vacation, and personal time used; it does not reflect sick, vacation, and personal time earned or the balances of the leave time.

The Auditor's computer system has a report available entitled "Employee Local Leave Plan Report," which has not been approved. This report reflects the leave used and ending leave balances. A comparison of the two reports revealed several differences:

1. For 9 of 17 (53 percent) employees tested, vacation leave used per the Employee Service Record was from 1 to 7 days more than what was reported on the computerized report.
2. For 8 of 17 (47 percent) employees tested, sick leave used per the Employee Service Record was from 1 to 16 days more than what was reported on the computerized report.
3. For 5 of 17 (29 percent) employees tested, personal leave used per the Employee Service Record was from 1 to 4.5 days more than what was reported on the computerized report.
4. For 5 of 17 (29 percent) employees tested, vacation leave used per the Employee Service Record was from 3 to 6 days less than what was reported on the computerized report.
5. For 3 of 17 (18 percent) employees tested, sick leave used per the Employee Service Record was from 2.5 to 5 days less than what was reported on the computerized report.
6. For 7 of 17 (41 percent) employees tested, personal leave used per the Employee Service Record was from .25 to 2 days less than what was reported on the computerized report.

The Auditor's office is not verifying that the time records are in agreement to the computerized reports.

COUNTY AUDITOR
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

While reviewing current year time records in one department, the only items posted to the time record was leave time. The time "worked" was not recorded to the time record as required.

All governmental units are required by law to use the forms prescribed by this department; however, if it is desirable to use a different form or to have a prescribed form modified to conform for computer applications, a letter and three copies of the proposed form may be submitted to the State Board of Accounts for approval. No form should be printed and placed into use, other than a prescribed form, without prior approval. 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)

The federal Fair Labor Standards Act (FLSA) requires that records of wages paid, daily and weekly hours of work, and the time of day and day of week on which the employee's work week begins be kept for all employees. These requirements can be met by use of the following prescribed general forms:

- General Form 99 A, Employees' Service Record
- General Form 99B, Employee's Earnings Record
- General Form 99C, Employee's Weekly Earnings Record

General Form 99C is required only for employees who are not exempt from FLSA, are not on a fixed work schedule, and are not paid weekly.

Additional information regarding FLSA rules and regulations may be obtained from the Department of Labor. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 18)

TAX SALE REDEMPTION FUND

As stated in prior reports, after a property is sold on tax sale, the owner may "redeem" or purchase the property back within one year. When a property is redeemed, the money collected is placed in the Tax Sale Redemption Fund (65) for subsequent distribution to the "purchaser" of the property from the tax sale. The transaction is also posted to a detail record equivalent of the "Tax Sale Report." This detail record should be reconciled to the Tax Sale Redemption Fund to ensure all activity has been properly posted.

Since the Tax Sale Redemption Fund is not reconciled to the detail record, the County is not able to determine discrepancies when they occur. At December 31, 2010, the Tax Sale Redemption Fund had a balance of \$53,733.89; of that amount \$51,797.27 could be identified, which then left \$1,936.62 which could not be identified.

Controls over the receipting, disbursing, recording, and accounting for the financial activities are necessary to avoid substantial risk of invalid transactions, inaccurate records and financial statements and incorrect decision making. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

COUNTY AUDITOR
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

AUDITOR TAX REFUNDS

After a taxpayer has paid property taxes, errors may be discovered resulting in a refund due the taxpayer. When this occurs, a claim for the refund is filed and recorded on a "Claim for Refund of Taxes" (County Form 17TC), and the amount refund is posted to the Refunds Fund (62). At settlement, tax collections that have been refunded from Fund 62 are reimbursed to the fund. Therefore, this fund will accumulate a deficit or negative cash balance until such time as the settlement is performed. A similar comment appeared in the prior report.

During 2010, there were two settlements that occurred in Fund 62. The following discrepancies were noted:

<u>Settlement</u>	<u>17TC Report</u>	<u>Ledger Disbursements</u>	<u>Difference</u>
#1	\$ 1,219,057.89	\$ 1,215,439.45	\$ 3,618.44
#2	2,501,706.98	2,562,426.36	(60,719.38)

For settlement #1, the differences were due to the following:

1. Items were listed on the 17TC report for the settlement but the disbursement was posted in prior years to Fund 62 for \$5,757.49.
2. Two checks posted to Fund 62 were not included in the settlement 17TC report for \$2,128.83.

For settlement #2, the differences were due to the following:

1. Items were listed on the 17TC report for the settlement but the disbursement was posted in prior years to Fund 62 for \$113,504.42.
2. Settlement corrections from 2009 included in the 17TC report totals for \$176,629.29.
3. Several ledger disbursements were not included in the settlement 17TC report.

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 thing, 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 Manual for County Auditors of Indiana, Chapter 14)

E-911 FEES COMINGLED INTO ONE FUND

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. In addition, Indiana Code 36-8-16-14 and Indiana Code 36-8-16.5-41 indicate that specific disbursements

COUNTY AUDITOR
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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 proper fees collected.

Indiana Code 36-8-16-13 states:

"A county treasurer or municipal fiscal officer to whom the 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."

Indiana Code 36-8-16-14 states:

"(a) 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 expenditures."

Indiana Code 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."

COUNTY AUDITOR
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AUDIT RESULTS AND COMMENTS
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Indiana Code 36-8-16.5-41 states:

"(a) 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."

QUESTIONABLE EXPENDITURES E-911

During our review of E-911 disbursements we found questionable expenditures based on the state guidelines for the following items in 2010:

1. Office Supplies
2. Office Equipment, such as printers and fax machines
3. Furniture (lockers for dispatchers)
4. Membership Dues

The questionable expenses totaled \$6,946.27, less than 1 percent of the total \$2,633,977.98 Emergency 911 expenditures for Porter County.

Indiana Code 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."

COUNTY AUDITOR
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

Indiana Code 36-8-16.5-41 states:

"(a) 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."

COMMISSIONER'S APPROVAL OF THE EMPLOYEE BENEFIT FUND DISBURSEMENTS

Disbursements out of the "Employee Benefit Fund" (Fund 45, a self-insurance fund) are reviewed and approved by the Plan Administrator, the Auditor, and a Payroll Clerk in the Auditor's office. However, the disbursements from the "Employee Benefit Fund" are not included on the claim docket and are not formerly approved by the County Commissioners.

The board of county commissioners shall examine the merits of all claims or vouchers so presented and may, in its discretion, allow such claim or voucher, in whole or in part, as they may find to be valid. [IC 36-2-6-2] It is unlawful for any board of commissioners of any county or for any member thereof to make any allowance or to allow any claim or voucher against the county, or order the issuance of any county warrant for the payment of any sum of money, except at a regular or special session of the board. [IC 36-2-6-4] Each claim or voucher must show the date and amount allowed. If a claim or voucher is disallowed in whole or in part, this should be clearly shown on the claim or voucher and on the docket or register. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 7)

LEVY EXCESS TRANSFER

On April 19, 2011, the County Commissioners approved Ordinance No. 11-06, creating and authorizing the use of a Rainy Day Fund (Fund 375). The Rainy Day Fund is to be used to assist in the budgetary shortfall in the operation of the Porter County E-911 Department and Dispatch Center. The County then transferred \$4,025,623 from the Levy Excess Fund into the Rainy Day Fund. At December 31, 2010, the Levy Excess Fund had a balance of \$4,025,623, which originated from the Family and Children and Children's Psychiatric Residential Treatment Services (CPRTS) Funds distributed by the state to be used for public safety. In 2009, the Department of Local Government Finance (DLGF) authorized County Auditors to transfer these funds to the County's Rainy Day Fund. However, the transfer was to occur on or before December 31, 2009. In 2009, the County had not yet established a Rainy Day Fund.

In 2011, the Auditor indicated that the County had permission from the DLGF to transfer the Levy Excess Funds to the Rainy Day Fund. However, documentation was not presented for audit.

COUNTY AUDITOR
PORTER COUNTY
AUDIT RESULTS AND COMMENTS
(Continued)

IC 6-1.1-19-1.7 and 6-1.1-18.5-17 require that a local taxing unit shall establish a "Levy Excess Fund" and shall receipt that portion of the property taxes received which exceeds one hundred two percent (102%) of the taxing unit's ad valorem property tax levy to the "Levy Excess Fund."

Each year the State Board of Tax Commissioners will certify to each unit of local government figures which show one hundred two percent (102%) of the tax levy for each fund, and, if the property taxes received exceed one hundred two percent (102%) of the levy, the excess shall be receipted to the "Levy Excess Fund."

The statute provides that the State Board of Tax Commissioners (Department of Local Government Finance) may require a taxing unit to include the amount in its Levy Excess Fund in the taxing unit's budget. After the budget has been approved, the amount in the Levy Excess Fund should be transferred from the Levy Excess Fund by warrant (check) and quietus (receipt) to the fund or funds in which the reductions were made to reduce the amount to be raised by taxation. (County Bulletin and Uniform Compliance Guidelines, Volume No. 336, page 7-8)

Political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

COUNTY AUDITOR
PORTER COUNTY
EXIT CONFERENCE

The contents of this report were discussed on July 12, 2011, with Robert J. Wichlinski, Auditor; Alizabeth Bailey, Chief Deputy Auditor; John Evans, President of the Board of County Commissioners; Daniel Whitten, President of the County Council; and Gwenn R. Rinkenberger, County Attorney. The Official Response has been made a part of this report and may be found on pages 13 through 15.



Robert J. Wichlinski
Auditor

(219) 465-3445

To: Indiana State Board of Accounts

From: Bob Wichlinski- Porter County Auditor *AB*

RE: 2010 Financial Audit Response

Date: July 25th, 2011

Internal Revenue Service Audit

1.-3.) After receiving guidelines from the IRS Auditor specifying the difference between an employee and an allowable contractual service vendor, the Porter County Auditor's Office immediately corrected the issues. Any and all payments to current employees with the exception of reimbursements are now processed through our payroll department and are taxed and reported on form W-2. All election workers are paid through our payroll department with the exception of their meal reimbursement. Additional compensation for board members and fair security is included with their bi-weekly paycheck.

4.) All payments to vendors were discontinued if they did not have a properly executed W-9 form on file. Porter County requested all missing W-9 forms for all vendors that were already in the system. No payments to vendors were made until a W-9 form was received. To enforce this policy, the Porter County Auditor's Office Accounts Payable Department does not enter any new vendors into our financial system without a W-9 form.

5.) Beginning May 11th, 2009, Porter County Government established a take home vehicle policy that was approved by the IRS. This policy adds \$30 dollars per pay as a fringe benefit to all employees that have a take home County vehicle.

The IRS originally audited Porter County for 2007 and assessed taxes, penalties, and interest of \$357,309.04. The IRS subsequently audited 2008 and 2009. They assessed taxes, penalties, and interest in the amount of \$13,434.02 and \$11,112.58 respectively for these years. After taking all of the steps outlined above to comply with Federal guidelines, we were able to negotiate a final settlement payment to the IRS to cover years 2007, 2008, and 2009 in the amount of \$96,079.87. Porter County was obligated to make the payment by the agreed upon date or would have incurred additional penalty and interest charges.

Penalties and Interest

It is the policy of the Porter County Auditor's office to only pay charges on the credit card. If a card holder is assessed penalties and interest due to a late submission of their credit card bill to the office, the card holder is responsible for the payment. A signed copy of this agreement between the Auditor's Office and the card holder is kept on file in the Auditor's Office.

Employee Service Records

The Porter County payroll system does have the ability to produce a report that reflects earned sick, vacation, and personal time. This report is generated every payroll. We would have gladly submitted this report to the State Board of Accounts Auditors had it been requested specifically.

The current payroll system tracks leave time one week behind while the salary positions are paid current. The only way to correct this would be to delay payroll for one week to match the leave report. However, this is not a possible option. The Porter County Auditor is currently researching various payroll programs to assist and correct this leave time payroll issue.

The Porter County Auditor's Office was unaware that the "Employee Local Leave Plan Report" needed to be approved. We will take the appropriate actions to have this report approved.

Tax Sale Redemption Fund

From now on, a copy of the Tax Sale Redemption receipt will be attached to the Tax Sale Redemption claim form to ensure that the amount received in to the "Tax Sale Redemption Fund" is the same as the amount of the redemption check. The unidentified \$1,936.62 will be transferred to the County General fund. These steps will ensure that this fund will always be in balance in the future.

Auditor Tax Refunds

There were discrepancies between the disbursements reported through the financial system and the refunds reported on the 17TC report during the financial period audited. However, all of these differences between what was reported and actually disbursed were adjustments that were made to correct previous years after extensive amounts of research had been completed. The Porter County Auditor's office also reviewed those adjustments with the Indiana Auditor of State's Office to ensure the 17TC report would be compliant. The "Auditor Tax Refund Fund" (65) is now in balance for the first time in the history of the Porter County Financial System which dates back to 1990. The Porter County Auditor's office also reported all two year old warrants that were previously deposited back into the fund to the Indiana Attorney General's office and sent a check for the corresponding amount.

The Porter County Auditor's office balances all 17TC refunds disbursed from the "Auditor Tax Refund Fund" to the refunds reported on the 17TC report during both the Fall and Spring property tax cycles. In the future, all tax refunds that become a two year old warrant will be remitted to the Indiana Attorney General's office. This will ensure that the disbursements from the "Auditor Tax Refund Fund" are in complete balance with the 17TC report for the corresponding property tax cycle.

E-911 Fees Comingled Into One Fund

Beginning 2012, Porter County Government will be using the State Mandated Chart of Accounts. The wireless and landline fees will be deposited into two separate funds just as they are listed on the new Chart of Accounts.

Unallowable Expenditures E-911

During the 2012 budget cycle that Porter County Government is approaching, the Porter County Auditor will inform the County Council on the State guidelines for allowable expenditures from the E-911 fund.

Commissioner's Approval of the Employee Benefit Fund Disbursements

The Porter County Auditor's office will be submitting a memo monthly to the Porter County Board of Commissioner's with the total dollar amount disbursed from the "Employee Benefit Fund". This memo will be approved once a month by The Porter County Board of Commissioners at their public meeting.