B41585

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

AUDIT REPORT
OF

CITY CONTROLLER
CITY OF GARY
LAKE COUNTY, INDIANA

January 1, 2011 to December 31, 2011

FILED
01/02/2013

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CITY OFFICIALS

Office	Official	Term
Controller	M. Celita Green	01-01-11 to 12-31-12
Mayor	Rudolph Clay, Sr.	01-01-08 to 12-31-11
	Karen Freeman-Wilson	01-01-12 to 12-31-15
President of the Board of Public Works and Safety	Geraldine B. Tousant	01-01-11 to 12-31-11
	Delvert Cole	01-01-12 to 12-31-12
President of the Common Council	Ronier Scott	01-01-11 to 12-31-11
	Kyle W. Allen	01-01-12 to 12-31-12
Superintendent of Utilities	Rinzer Williams, III	01-01-11 to 02-28-12
	(Vacant)	02-29-12 to 07-29-12
	Dan Vicari	07-30-12 to 12-31-12
President of the Board of Sanitary Commissioners and Storm Water Commissioners	Richard Comer	01-01-11 to 12-31-12

STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE CITY OF GARY

We have audited the records of the City Controller for the period from January 1, 2011 to December 31, 2011, 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 Gary for the year 2011.

STATE BOARD OF ACCOUNTS

September 6, 2012

FEDERAL GRANT SCHEDULE

The Schedule of Expenditures of Federal Awards (SEFA) provided for audit was incomplete and contained the following errors:

1. The schedule did not include a federal program which resulted in the SEFA presented for audit to be understated by $1,000,583 Federal Expenditures, before adjustment.

2. Nine of the programs on the schedule did not include or did not have the correct the CFDA (Catalog of Federal Domestic Assistance) numbers relating to the programs. There were also seven grants on the schedule which did not include all award identifying numbers.

3. Five programs reported a total for program expenditures. The SEFA did not detail the financial activity between the various grant awards.

4. Four ARRA (Recovery) grants for ARRA funding were not identified on the schedule as ARRA.

Although the Controller's office obtained additional information and revised the SEFA for audit, the controls over information processes that contributed to the errors in the original SEFA are insufficient.

There are various departments responsible for applying for grants, seeking board approval for the grants, and overseeing the implementation of the grant and the related grant activity. The Controller's office is responsible for preparing the SEFA, based upon the grant information obtained from the financial accounting records and other information provided by each department. A review of the grant files maintained by the business office determined that grant award letters, grant application, grant budget, reports, and other grant documents are not always provided by the various departments. These documents are necessary for the Controller's office to obtain required information for the SEFA such as CFDA titles and numbers, and to assist in identifying federal grants.

The lack of submission of grant documents by the various departments to the Controller's office weakens internal controls over grant accounting and hinders the ability of the business office to accurately prepare the SEFA.

Circular A-133, subpart .300 Auditee Responsibilities, states in part:

"The auditee shall: (a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity."

Circular A-133, subpart .310 Financial Statements states in part:

"(b) Schedule of expenditures of Federal awards. The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements . . . At a minimum, the schedule shall:

1. List individual Federal programs by Federal agency. . . .

2. For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

3. Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number . . ."

INTERNAL CONTROLS OVER FINANCIAL STATEMENTS

The Gary Sanitary District (GSD), a department of the City, sold revenue bonds in September 2011. The bond proceeds are financing the Ralston Street Lagoon project, in accordance with a consent decree with the EPA (Environmental Protection Agency). Bond proceeds of $21,108,113 were deposited into a trust account in September 2011. Interest earnings and the Good Faith Deposit from the bond purchaser, increased receipts in the trust account by $217,425. The trust receipts for 2011 totaled $21,325,538. Total disbursements from the Trust account in 2011 were $811,261. Disbursements were made for bond issuance costs and project costs.

The financial transactions of the Trust account, including the ending cash balance of $20,514,277 at December 31, 2011, were not entered in the records of the City. Failure to record the transactions to the City's financial accounting system caused the annual financial report prepared by the City to be understated. Adjustments, approved by the City Controller, have been made to the financial statements to reflect the activity of the Trust account.

Inquiry of employees at GSD indicated that the failure to record the transactions was an oversight by employees, who did not realize that the trust account should be reflected in the records. The City's finance department relies upon the GSD's finance department to account and post the financial transactions of GSD. The City and GSD do not have adequate internal controls to ensure that all financial transactions of the City, which includes GSD activity, were properly recorded.

The omission of transactions by GSD hinders the ability of the City's finance department to accurately report the City's financial activity.

OMB Circular A-133___.300 states in part, "The auditee shall: (d). Prepare appropriate financial statements . . ."

OMB Circular A-133___.105 states in part:

"Internal control means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;

2. Reliability of financial reporting; and

3. Compliance with applicable laws and regulations."

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 Cities and Towns, Chapter 7)

All financial transactions pertaining to the governmental unit should be recorded in the records of the governmental unit. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

NONCOMPLIANCE WITH STATUTE REGARDING THE USE OF TAX INCREMENT FUNDS (TIF)

A Community Development Corporation (CDC) is an organization incorporated to engage in activities that promote and support community development. The Broadway Area Community Development Corporation (CDC) is involved with the development of affordable housing in the City of Gary. The CDC sent a letter to the City's Deputy Mayor dated August 31, 2011, requesting financial assistance regarding delinquent tax matters.

The Deputy Mayor also served as President of the City's Redevelopment Commission at the time of being the Deputy Mayor. The City's Redevelopment Commission oversees the City's Tax Increment Financing (TIF) districts.

The CDC stated in its letter to the Deputy Mayor that it had appealed to Lake County (County) for tax-exempt status for property it owned, but no hearing date had been set. The County had taxed several CDC properties. Due to non-payment of these property taxes, the County intended to sell the properties at tax sale. The properties up for tax sale included the Madison townhomes, for which TIF revenue bonds had been sold for the construction of the townhomes. The townhomes reside within a TIF district and repayment of the revenue bonds is financed through TIF dollars.

Based upon the CDC request, the City paid the delinquent taxes in September 2011. The delinquent taxes also included the penalties on the delinquent taxes, and tax sale assessments. The taxes were paid from TIF funds of the City. The tax payments made by the City totaled $157,725.61. Of this amount paid, $29,545.01 did not have detailed documentation (tax bills) to support the payment made.

Due to the lack of detailed documentation, tax payment information was obtained from Lake County to verify the City's payments totaling $29,545.01. The County information determined that one of the properties had actually been sold at tax sale in 2010 and was redeemed with the City's payment. Having the property sold at tax sale, and not redeemed within the first 6 months after sale, increased the cost to redeem the property.

Another property for which property taxes had been paid for by the City (part of the $29,545.01) was not owned by the CDC but an individual. Based upon record information obtained from Lake County, the City paid $469.46 for the taxes for the personally owned property. Had the City required detailed tax bills or other supporting documentation before paying the $29,545.01 in taxes and penalties, they may have detected the property was not owned by the CDC.

Due to the payment of the delinquent property taxes on behalf of the CDC, the TIF District did not have enough TIF funds in the Madison TIF in 2011 to pay the revenue bond holders. The bonds are revenue bonds and payments to the bonds holders can only occur when there is revenue. Because the City made the payment for the delinquent taxes, the revenue in the Madison TIF Fund was insufficient to pay the bonds.

Sources and uses of funds should be limited to those authorized by the enabling statute, ordinance, resolution, or grant agreement. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Indiana Code 5-11-10-1.6 states in part:

"(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim. . . .

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available."

OVERDRAWN CASH BALANCES

Cash balances of some of the City's funds are overdrawn due to grant funds operating on the reimbursement basis. Reimbursement grants require the City to expend funds and subsequently request reimbursement. Only those City funds with overdrawn cash balances at December 31, 2011, which are not due to the timing of reimbursements, are listed in the following table.

Fund No.	Fund		Amount
101	General		$ 4,906,451
791	Self Insurance		333,253
202	Protective Services Grant I	a	1,033,929
222	Emergency Shelter	a	421,344
240	Health and Human Services	a	293,041
281	Leased Properties - Gary Bldg Corp	a	582,047

a - overdrawn 4 or more years

Several of the funds have been overdrawn continuously for four or more years, as identified above. The Emergency Shelter Fund negative balance at year end continues to increase each year which may indicate disbursements in excess of grant awards or failure to request reimbursements.

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)

TEMPORARY TRANSFER OF FUNDS (INCLUDES SANITARY DISTRICT)

Various temporary transfers between certain funds have been made and not repaid within the time frame permitted by statute. A similar comment appeared in prior reports. The following summarizes the temporary transfer activity of the City and the Gary Sanitary District (GSD) for 2011:

Loan To	Loan From	Loans Outstanding January 1, 2011	Loans	Repayments	Loans Outstanding December 31, 2011
General	Other City funds (Excluding GSD Funds)	$ 14,310,000	$ 4,000,000	$ 5,352,000	$ 12,958,000
General	GSD funds	10,437,127	-	2,080,000	8,357,127
Other City funds (Excluding GSD Funds)	Other City funds (Excluding GSD Funds)	474,000	864,000	772,000	566,000
GSD funds	GSD funds	9,447,000	4,573,500	8,479,500	5,541,000
	Totals	$ 34,668,127	$ 9,437,500	$ 16,683,500	$ 27,422,127

Of the amounts outstanding and not repaid by December 31, 2011, $16,559,127 has been outstanding since 2010 or prior, as noted below:

Receiving Fund	Disbursing Fund	Outstanding Balance	Outstanding Since The Year of
General	Various GSD Funds	$ 8,357,127	2006
General Fund (101)	Lakefront TIF (826)	4,000,000	2008
General Fund (101)	Lakefront TIF (826)	1,260,000	2009
General Fund (101)	Consolidated Area TIF (823)	968,000	2009
General Fund (101)	Media (270)	1,000,000	2010
General Fund (101)	Remote Encoding Center (416)	500,000	2010
Park and Rec (250)	Consolidated Area Exp TIF (827)	380,000	2010
Redevelopment Operating (265)	Small Farms TIF (821)	62,000	2010
2007 GO Judgment Bonds (314)	Consolidated Area TIF (823)	32,000	2010
Gsd Wwtp General Operating (670)	Various GSD Funds	2,000,000	2010
Total		$ 18,559,127	

Temporary transfers of the City, totaling $92,000, were made in 2011 with Council authorization. The Sanitary District had two temporary transfers recorded in December 2011, totaling $605,000, which were made without prior approval of the Sanitary District Board. The Board did not approve these temporary transfers until June 25, 2012.

The Council passed ordinance 8510 on December 31, 2011, to extend most temporary transfers made to the General fund for six months until June 2012. Three temporary transfers totaling $912,000, outstanding at December 31, 2011, were not extended by the Council.

Indiana Code 36-1-8-4 concerning temporary transfer states in part:

"(a) The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash low purposes from another fund of the political subdivision if all these conditions are met: . . . (3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs. (4) The amount transferred must be returned to the other fund at the end of the prescribed period. . . ."

"(b) If the fiscal body of a political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following: (1) Passes an ordinance or a resolution that contains the following: (A) A statement that the fiscal body has determined that an emergency exists. (B) A brief description of the grounds for the emergency. (C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs. (2) Immediately forwards the ordinance or resolution to the state board of accounts and the department of local government finance."

TIMELY RECORDKEEPING

Electronic bank transactions were not recorded in the records of the City on a timely basis. These electronic bank transactions are used to pay various liabilities of the City, such as payroll withholdings and debt. We observed that the original date of the transactions and the date of entry on the records differed by several months. These transactions included automatic withdrawals, electronic funds transfers (EFT), debt payments and other bank transactions.

All documents and entries to records should be done in a timely manner to ensure that accurate financial information is available to allow the governmental unit to make informed management decisions and to help ensure compliance with IC 5-15-1-1 et seq., commonly referred to as the Public Records Law. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

RESERVE FUND ORDINANCE NONCOMPLIANCE

The Common Council previously adopted Ordinance 8380 concerning the sale of General Revenue Notes of 2010. Part 9 of the Ordinance required monthly transfers of pledged Riverboat Revenues into a Debt Service Reserve (Reserve) account until the balance reached $2,000,000. In 2010, a portion of the revenue note proceeds were deposited into a bank account established for the reserve. In June 2011, the City began making monthly deposits into the bank account for the reserve to comply with the Ordinance. The amount deposited by the City into the bank account in 2011 was $1,000,000. The balance of the Reserve bank account at December 31, 2011, was $1,354,737.

On July 19, 2011, the Common Council adopted an ordinance creating a Note Reserve Fund (Fund 317) to account for the financial activity of the Reserve account as described above. The reserve bank account activity in 2010, and the 2011 activity, was erroneously posted to the fund 277, Riverboat (Casino) fund. This resulted in the Note Reserve Fund having a zero balance at year end, and the Casino fund being overstated by the $1,354,737 in the bank account.

The beginning balance of the bank account at January 1, 2011, and 2011 bank activity (other than the monthly transfers) were recorded in the Casino fund, and should have been recorded in the Note Reserve fund. The deposit transactions to the bank account in 2011 were recorded to the ledgers for the Reserve fund. These transactions were then offset by recording a disbursement transaction, which moved the amount back to the Casino fund.

Factors contributing to the errors in postings were due to fund not being created until mid-year and uncertainty by financial staff as to where the activity should be recorded. A review of the ledgers for the current year (2012) noted that the deposit transactions have been properly posted to the Note Reserve fund. The City Controller has also approved an adjustment to the financial statements which reflects the activity and balances in the correct fund, moving the bank balance amount from the Casino fund to the Note Reserve fund.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

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 Cities and Towns, Chapter 7)

EXCESSIVE OR UNREASONABLE COSTS

Common Council members are entitled to reimbursement for certain expenditures under the City's Travel policy. Members are eligible to be reimbursed for lodging (when necessary) as well as mileage or airfare, depending on which is less expensive. The policy states that lodging is limited to and shall not exceed "the lowest single occupancy rate." Travel can be either by car or by air and is to be reimbursed for the least expensive method of transportation.

1. In two instances, a council member Ragen Hatcher was reimbursed for lodging exceeding the lowest single occupancy rate. The total difference between the lowest single occupancy rate and the rate that was reimbursed was $929.25.

2. Three council members (Ragen Hatcher, Kimberly Robinson, and Shirley Stanford) attended the same conference. Robinson and Stanford traveled by air, while Hatcher traveled by car. The airfare was significantly less than the cost of mileage. The difference between the airfare and mileage was $291.57.

It is unclear as to why the council members are not abiding by the travel policy.

Every effort should be made by the governmental unit to avoid unreasonable or excessive costs. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

City Ordinance 2011-86 states: "Reimbursement of expenses shall be based on actual expenditures for hotel accommodations at the LOWEST SINGLE OCCUPANCY RATE . . ."

City Ordinance 2011-86 states: ". . . If the cost of travel is cheaper by air transportation . . . but the employee chooses to travel by car . . . reimbursement shall be based on only such expenses as would have been incurred had the employee traveled by air."

TRAVEL POLICY

On two separate occasions, payments were made by the City for meals as part of a conference registration fee. The individuals attending the conference would also receive per diem from the City for travel expenses. A similar comment appeared in the prior audit.

Each governmental unit should adopt a written travel policy in conformity with applicable statutes. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Per Diem is an allowance paid to your employees for lodging, meals, and incidental expenses incurred when travelling. This allowance is in lieu of paying their actual travel expenses. (www.irs.gov/pub/irs-regs/perdiemfaq&a.prn.pdf)

FUND SOURCES AND USES

Funds were disbursed from the Energy Efficiency and Conservation Block Grant (EECBG) Fund for catering services provided at a Gary Southshore Railcats game in August 2011. The total paid from the grant for catering was $2,109.90. The purchase order indicated it was for economic development. It appears that this type of expenditure would not be allowable from the grant.

Energy Independence and Security Act of 2007 (EISA) section 544 states in part: "An eligible entity may use a grant received under this subtitle to carry out activities to achieve the purposes of the program, including—

(1) development and implementation of an energy efficiency and conservation strategy under section 545(b);

(2) retaining technical consultant services to assist the eligible entity in the development of such a strategy, including—. . . .

(3) conducting residential and commercial building energy audits;

(4) establishment of financial incentive programs for energy efficiency improvements;

(5) the provision of grants to nonprofit organizations and governmental agencies for the purpose of performing energy efficiency retrofits;

(6) development and implementation of energy efficiency and conservation programs for buildings and facilities within the jurisdiction of the eligible entity, including— . . .

(7) development and implementation of programs to conserve energy used in transportation, including— . . .

(8) development and implementation of building codes and inspection services to promote building energy efficiency;

(9) application and implementation of energy distribution technologies that significantly increase energy efficiency, including— . . .

(10) activities to increase participation and efficiency rates for material conservation programs, including source reduction, recycling, and recycled content procurement programs that lead to increases in energy efficiency;

(11) the purchase and implementation of technologies to reduce, capture, and, to the maximum extent practicable, use methane and other greenhouse gases generated by landfills or similar sources;

(12) replacement of traffic signals and street lighting with energy efficient lighting technologies, including— . . .

(13) development, implementation, and installation on or in any government building of the eligible entity of onsite renewable energy technology that generates electricity from renewable resources, including— . . .

(14) any other appropriate activity, as determined by the Secretary, in consultation with— . . . "

Sources and uses of funds should be limited to those authorized by the enabling statute, ordinance, resolution, or grant agreement. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

LACK OF DETAIL ON EECBG CLAIMS

Federal EECBG grant funds were used to pay three contracted employees: the Energy Director, the Outreach Coordinator, and a Consultant. Biweekly invoices submitted by the Energy Director, Outreach Coordinator, and Consultant lacked sufficient detail. The invoices listed general work performed, but failed to include rate of pay, hours worked, and days worked. Total invoices paid without proper detail totaled $125,502.65.

Indiana Code 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

LACK OF ITEMIZATION ON COMMUNITY DEVELOPMENT CLAIMS

Claims were not adequately itemized, and did not have evidence to adequately support the payment of goods or services for the following Neighborhood Stabilization Program (NSP) claims, which the Community Development Department manages.

1. Two payments totaling $5,000 were made to Attorney Carl Jones for services. The claims and supporting invoices did not detail what services were provided or when they were performed or how the amount paid was determined. The contract stated that payment was not to exceed $5,000.

2. Claims or invoices did not have evidence to adequately support the payment of goods or services. Gary Material Supply LLC was paid $14,245 for the delivery of soil to various demolition sites within the City. Payment was made on the basis of tonnage according to the invoice, and each delivery was billed for 22 tons at a per ton price. Review of the various truck tickets for delivery to the demolition sites determined that delivery of the soil was based on loads and not weight (one truck = one load). The weight of the load was not noted on the tickets. Billing and payment based upon tonnage may have resulted in the vendor being either over or underpaid. Due to not weighing the trucks, the accuracy of the amounts paid to the contractor could not be verified.

All claims, invoices, receipts, accounts payable vouchers, including those presented to the governing body for approval in accordance with IC 5-11-10, should contain adequate detailed documentation. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Indiana Code 5-11-10-1.6 states in part:

"(b) As used in this section, 'claim' means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim."

NONCOMPLIANCE WITH CITY POLICY REGARDING QUOTES FOR PUBLIC WORKS PROJECTS

Quotes were not solicited for the Rehab Upgrade Project at Pittman Park. A contract was awarded to A+ Rehab on March 8, 2011, for $8,265. The project had a change order for $4,480, which exceeded 50 percent of the project and was for work that could have been foreseen. The project was paid from Community Development Block Grant funds.

The City's Policies and Procedures, Number FP 206.1, section 4.3.2 states in part: "It is the policy of the city to obtain informal sealed quotes of $5,000 to $74,999 using the RFQ form. Requests for Quotations (Attachment A) shall be solicited from a minimum of three (3) vendors. . . . The quotations are submitted to the purchasing agency's public meeting . . . The quotes shall be awarded to the lowest or most responsive vendor."

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PURCHASING PREFERENCES

The Gary Board of Public Works used purchasing preferences to award contracts to Gary-owned businesses. City Ordinance Number 6972, Section 6, in part:

> "(e) in evaluating the price of any vendor's or contractor's bid or proposal for goods or services, the bids or proposals shall be evaluated as though the prices proposed or bid by a Gary business were ten percent (10%) lower than actually proposed or bid. The said preference may not exceed ten percent (10%) of the total amount of the lowest, most responsible and most responsive bid by a Gary business. The Gary Board of Public Works shall adjust the lowest, most responsible, most responsive bid by a Gary business and if after said adjustment, a Gary business is the lowest, most responsible and most responsive bid, the Gary Board of Public Works may award said contract to the said Gary business, at the price originally bid."
>
> "(f) other departments, divisions, components and agencies of the City of Gary letting contracts shall follow the procedures outlined in Section 6(e) above."

The City Ordinance regarding purchasing preferences did not comply with the statutory requirements. A similar comment appeared in prior reports.

A new law was effective July 1, 2011, regarding price preferences for public works. Indiana Code (IC) 36-1-12-22 stated in part: "(a) The definitions in IC 5-22-15, including the definitions in IC 5-22-15-20.9, apply in this section. (b) The procedures described in IC 5-22-15 for determining adjusted offers, price preference percentage, and total adjusted offers apply in this section. (c) The price preferences stated in IC 5-22-15-20.9 apply in this section. IC 36-1-12-22 has since been repealed, effective July 1, 2012."

Indiana Code 5-22-15-7 states in part:

> (a) An offeror may claim one (1) of the following types of preference for which the offeror is eligible:
>
> (1) An Indiana business preference under rules adopted under section 20 of this chapter or IC 4-13.6-6-2.5.
>
> (2) A preference for supplies as provided by sections 16, 18, 19, and 24 of this chapter.

(3) An Indiana small business preference as provided by section 23 of this chapter.

(4) An Indiana farm product preference as provided by section 23.5 of this chapter.

(b) An offeror may not claim more than one (1) preference as provided by sections 16, 18, 19, and 24 of this chapter for a given supply item."

COMPENSATION AND BENEFITS – CONTRACTED SERVICES

The City has contracted with individuals for services. These contracts were approved by the Board of Works. The contracts require the contractor to perform certain services, during hours of operation, and require that the individual report to an appropriate department head for direction. The contractors are submitting time invoices on a bi-weekly basis. Under the guidelines of the Internal Revenue Service, these individuals would be considered employees of the City. Federal taxes were not withheld or remitted for these individuals. This was a comment in the prior report.

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 Cities and Towns, Chapter 7)

IRS Publication 15, Part 2, states in part:

"**Employee status under common law.** Generally, a worker who performs services for you is your employee if you have the right to control what will be done and how it will be done. This is so even when you give the employee freedom of action. What matters is that you have the right to control the details of how the services are performed. If an employer employee relationship exists, it does not matter what it is called. The employee may be called an agent or independent contractor. It also does not matter how payments are measured or paid, what they are called, or if the employee works full or part time."

"**Treating employees as nonemployees.** You will generally be liable for social security and Medicare taxes and withheld income tax if you do not deduct and withhold these taxes because you treated an employee as a nonemployee. You may be able to calculate your liability using special section 3509 rates for the employee share of social security and Medicare taxes and the federal income tax withholding. The applicable rates depend on whether you filed required Forms 1099. You cannot recover the employee share of social security, or Medicare tax, or income tax withholding from the employee if the tax is paid under section 3509. You are liable for the income tax withholding regardless of whether the employee paid income tax on the wages. You continue to owe the full employer share of social security and Medicare taxes. The employee remains liable for the employee share of social security and Medicare taxes. See Internal Revenue Code section 3509 for details. Also see the Instructions for Form 941-X."

LOCAL LAW ENFORCEMENT CONTINUING EDUCATION FUND

The Local Law Enforcement Continuing Education Fund contains revenues other than those authorized by statute being deposited into the fund. Gun Range agreements, OV (Ordinance Violation) Payments, and Insurance reimbursements are being accounted for in the fund.

The following types of revenue shall be deposited into the local law enforcement continuing education fund established under IC 5-2-8-2:

1. Law Enforcement Continuing Education fees (IC 33-37-5-8 and IC 33-37-8-3)

2. Inspection of Motor Vehicle fees (IC 9-29-4-2)

3. Vehicle Accident Reports fees (IC 9-29-11-1)

4. Handgun License fees (IC 35-47-2-3)

5. Proceeds from the Sale of Confiscated Weapons (IC 35-47-3-2)

(Cities and Towns Bulletin and Uniform Compliance Guidelines, September 2003)

Indiana Code 5-2-8-2(b) states: "There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-37-8-4 and fees collected under IC 9-29-4-2, IC 9-29-11-1, and IC 35-47-2-3."

REGIONAL DEVELOPMENT AUTHORITY

By statute, the City is responsible for funding a portion of the operations of the Regional Development Authority (RDA). The City is obligated to pay $875,000 quarterly, totaling $3,500,000 for the year. As of June 2012, the City has an outstanding balance of $6,875,000. The City is in the process of resolving an agreement with Majestic Star Casino, which the City plans on using the settlement to become current with the RDA. The City continues to correspond with RDA to resolve the outstanding balance.

Indiana Code 36-7.5-4-2(c) states in part: ". . . each fiscal officer shall transfer eight hundred seventy-five thousand dollars ($875,000) to the development authority fund before the last business day of January, April, July, and October of each year . . ."

TIMELY PAYMENT OF ACCOUNTS PAYABLE VOUCHERS (CLAIMS)

The City continues to make untimely payments to vendors and other suppliers of goods and services. We noted payments being made in excess of seven months after the invoice dates. A similar comment appeared in the prior report.

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. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

PAYROLL

Some Community Development employees worked on grant projects after their scheduled workday hours. Based upon time records provided, they were compensated the actual number of hours worked over the 40 hours at straight-time instead of time and one-half. For example, if the employee worked 16 hours on the grant project beyond their normal scheduled work week of 40 hours, they were compensated for 56 hours that week instead of the correct amount of 64 hours. A similar comment appeared in the prior report.

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 Cities and Towns, Chapter 7)

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 Cities and Towns, Chapter 7)

DEBT SERVICE RESERVE TRANSFERS – GARY SANITARY DISTRICT

The 2011 Sewage Revenue Bonds Series A, issued to fund the Ralston Street Lagoon project, required that monthly transfers of $237,669.45 and $19,892 be made to the Bond and Interest Fund (372) and Debt Service Reserve Fund (373), respectively, for 2012. As of June 2012, no transfers had been made to the Debt Service Reserve Fund, while monthly transfers of $262,373 had been made to the Bond and Interest Fund.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

INTERFUND TRANSFERS – GARY SANITARY DISTRICT

On June 30, 2011, a transfer of $80,500 was made from fund 670 (GSD WWTP General Operating) to fund 678 (GSD Long Lake Water). The transfer was made to create fund 678, which is to account for a grant from the Indiana Department of Natural Resources. The board did not approve a resolution authorizing the transfer of funds. A similar comment appeared in the prior audit.

Payments or transfers which are not authorized by statute, ordinance, resolution, or court order must be reimbursed or transferred to the appropriate fund. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

ACCOUNTS RECEIVABLE REPORTS – GARY SANITARY DISTRICT

The accounts receivable report generated at the end of each month does not accurately report the outstanding account receivable balances. The report consists of 3 pages and consists of sewage, trash, and end of month all (totals of the combined receivables). The sewage and trash pages, when added together, do not agree to the combined totals. In order to determine the actual balances, the balances for trash must be manually computed.

The accounts receivable aging report does not accurately reflect the outstanding receivables at the end of the month. The report is automatically generated by the computer system overnight. The end of month does not close until several days later, which allows for differences to occur. Therefore, the aging report does not agree to the end of month report or reports generated to reflect the outstanding receivables at the end of a month or year. This comment appeared in the prior report.

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 Cities and Towns, Chapter 7)

FINES AND PENALTIES POLICY – GARY SANITARY DISTRICT

The Gary Sanitary District Board established a policy regarding the assessment of fines and penalties for late payments made by customers. The District did not follow its policy of charging a ten percent penalty on current charges outstanding on the thirty-first day from the billing date. During 2011, the District failed to get board approval to waive the penalty for a portion of the year.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

APPROPRIATIONS – GARY SANITARY DISTRICT

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

Fund	Excess Amount Expended
Debt Service	$ 1,090,520

Indiana Code 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."

TRUE-UP AGREEMENTS WITH CONTRACT CUSTOMERS – GARY SANITARY DISTRICT

A true-up of costs owed for usage was calculated for 2008 and 2009 by the District's consultant (Cender and Company) in 2010. The contract customers are billed for service; but the current cost of that service has not yet been determined. After the end of the year occurs, the actual cost to provide the service is determined and the difference (a true-up) between the amount billed and amount of actual costs is calculated.

Per letters sent in December 2010 by the consultant to the customers, the customers and the District agreed to settle at an agreed upon percent of the amount owed due to the true-up. One of the contract customers (City of Hobart) requested paying the balance over a period of time, with interest, and made the first payment in 2010.

The agreements were not approved by the Board prior to the settlement letters being sent out to the contract customers. The agreement with Hobart was not approved by the board until September 2011. The true-up agreement with Lake Station was not approved until January 2012. The minutes did not indicate approval by the board of the agreement with the Merrillville Conservancy District. A similar comment appeared in the prior report.

Indiana Code 36-9-25-10 states in part:

> "In performing its duties the board may do the following: . . . (17) Prepare a schedule of reasonable service fees and collect them from persons who own, lease, or possess or control as tenants or as agents lots or lands located outside the boundaries of the district if the lots or lands are benefited by connection into the sanitary sewer system of the district as described in this chapter, with the proceeds from sewage connections and treatment service credited to the general fund of the district for general use and maintenance purposes. The fees may be fixed, repealed, or amended, or the service discontinued, by the board at its discretion."

The governing body of a governmental unit should have a written policy concerning a procedure for the writing off of bad debts, uncollectible accounts receivable, or any adjustments to record balances.

Documentation should exist for all efforts made by the governmental unit to collect amounts owed prior to any write-offs.

Officials or employees authorizing, directing or executing write-offs or adjustments to records which are not documented or warranted may be held personally responsible. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

LACK OF ACCOUNTABILITY OF COLLECTIONS – METRO CENTER

Controls over the receipting of financial activities were insufficient in 2011 for the Metro Center. There was no documentation for daily cash collections for parking spaces. In prior years, a daily tally sheet was used to provide documentation of daily cash collections. In 2011, they stopped using these daily collection sheets.

Also, the Metro Center stopped issuing written receipts for collections and payments received after February 7, 2011.

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 Manual for Cities and Towns, Chapter 7)

LEDGER OF RECEIPTS, DISBURSEMENTS AND BALANCES – METRO CENTER

As stated in prior reports, the Metro Center does not use the prescribed City or Town Form 208, Ledger of Receipts, Disbursements and Balances, or an approved alternative form to account for the activity of the Metro Center. A spreadsheet is used that includes total monthly revenue and expenses and cash balances. However, the spreadsheet does not include any detail of revenue sources or detail of expenses.

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)

PETTY CASH/CASH CHANGE – GENESIS CONVENTION CENTER

A cash count of petty cash was performed on August 7, 2012. The petty cash count yielded a total of $5,950.94; exceeding the $5,000 approved amount. In addition, the petty cash contained receipts dating back to November 2011, which had not been submitted to the Controller's office for reimbursement.

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 Cities and Towns, Chapter 7)

RENTALS – GENESIS CONVENTION CENTER

As noted in prior audits, the Genesis Convention Center (GCC) generates revenues from the leasing of the facilities and food and beverage sales related to those leases. Lease contracts are prepared for the various events and the GCC - User Guidelines are an extension of the lease agreements. During the review of the leases, we noted that two events had errors in the calculation of charges with the gratuity fee. In both instances, the lessee was overcharged.

One policy at the Genesis Convention Center is that if an event paid for 100 or more individuals to eat, the facility rental charge is reduced by 20 percent of the food cost (up to the amount of the rent). On two separate occasions, events having more than 100 guests and the 20 percent discount, the discount applied exceeded the rental charge, causing the lessee to be undercharged.

Each governmental unit is responsible for complying with the ordinances, resolutions, and policies it adopts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

AUTOMATIC TELLER MACHINE (ATM) – GENESIS CONVENTION CENTER

There is a privately owned ATM located in the lobby of the GCC. The owner has a contract with GCC, but the contract has expired. In the prior audit, GCC was advised to update the contract however as of the date of this report a new contract has not been negotiated.

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Cities and Towns, Chapter 7)

CITY CONTROLLER
CITY OF GARY
EXIT CONFERENCE

The contents of this report were discussed on September 24, 2012, with Karen Freeman-Wilson, Mayor; M. Celita Green, Controller; Mary Brown, Council member; and B.R. Lane, Chief of Staff. The Official response has been made a part of this report and may be found on pages 22 through 24.

CITY OF GARY
CITY CONTROLLER
2011 AUDIT RESULTS RESPONSES

FEDERAL GRANT SCHEDULE AND INTERNAL CONTROL OVER FINANCIAL STATEMENTS
See response in Federal Awards section.

NONCOMPLIANCE WITH STATUTE REGARDING THE USE OF TAX INCREMENTS FUNDS (TIF)
The City will work with the Redevelopment Commission to determine the status of the tax-exempt hearing for Madison Townhomes, as well as the status of all Madison Townhome properties, as it relates to the tax sale. The City will also work with the CDC Administrator and the Redevelopment Commission to resolve the issue of the CDC paying it taxes and bond holders improperly.

OVERDRAWN CASH BALANCES
The overdrawn cash balance in the General Fund and Self Insurance Fund are related to low tax property tax collections**.** The City reduced the 2011 General Fund ending cash deficit balance to nearly 50% lower than in 2010. Although the economy is still in an unstable financial position, the City is making every effort to continue to reduce its deficit balances. In addition, although reimbursable grants are typically overdrawn, the three grant funds listed are being analyzed to determine if the increasing deficit balances are due to slower than normal reimbursements from it is grantors, or some other factors.

TEMPORARY TRANSFER OF FUNDS (INCLUDES GARY SANITARY DISTRICT)
Due to the property tax caps, continuing reduced assessed values, and slow payment to no payment of property taxes in some cases; along with $14M being held by our local casino, the City has been slow in repaying its Interfund loans in the timely manner it desires and should pay. However, the City continues to work toward repaying these loans as funds become available.

TIMELY RECORDKEEPING AND RESERVE FUND ORDINANCE NONCOMPLIANCE
Responsibilities are being reassigned to assure that transactions are recorded in a timelier manner.
In early 2012, staff discovered that funds for the reserve note fund had not been transferred from the Casino Fund at the time the ordinance was approved to establish the fund in 2011. Those entries were made when the omission was discovered by staff, as noted by the auditor.

TRAVEL POLICY
The city travel policy is being reviewed to assure that it is clear, concise, and conforms to applicable statutes, after which it will be redistributed to all employees for adherence.

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LACK OF DETAILS ON EECBG CLAIMS AND LACK OF ITEMIZATION ON COMMUNITY DEVELOPMENT CLAIMS

All City departments will be distributed IC code 5-11-10-1-6 as it is stated, and reminded to process claims accordingly before submitting to the Controller's Office. The Controller's Office-Accounts Payable will enforce the proper detailing and itemization of claims, before checks will be issued for payment. The Controller's Office will also encourage contracts be expressed in terms that are stated in IC code 5-11-10-1-6, which will require claims to be submitted according to statute.

COMPENSATION AND BENEFITS

The City in 2012 has moved some contractors to employee status and continues to review its contracts for services to determine which may be considered contractors or employees. Due to reduced staffing, it is by the request of the Controller's office that vendor checks are printed on the week following payroll, which happens to be bi-weekly. This request was made to avoid wear and tear on printers and to control the flow of employees or contractors picking up checks in the same week. Therefore, some contractors being paid bi-weekly to be paid as an employee; however, others are paid monthly, or as the contract stipulates.

LOCAL LAW ENFORCEMENT

The Police Department will be informed of the statutory requirement that governs the Local Law Enforcement deposits, and advised of the types of deposits that should be receipted to the account.

REGIONAL DEVELOPMENT AUTHORITY

Due to the $14M that continues to be litigated between the City and Majestic Star Casinos, the City has not yet been able to pay the outstanding balance due to the RDA in full. However, the City has reduced the outstanding balance from 2010 to 2011, and made all required quarterly payments in 2011 and 2012.

TIMELY PAYMENTS OF ACCOUNTS PAYABLE VOUCHER CLAIMS

Utility gas and electrical claims are one of the largest expenses of the City and a required expense of the City. The City is currently auditing its uses of these utilities to find ways to reduce the costs to the level of property taxes that is available to pay them.

LACK OF ACCOUNTABILITY OF COLLECTIONS-METRO CENTER
The City is currently working with the Metro Center to improve its cash collections processes for parking spaces.

LEDGER OF RECEIPTS, DISBURSEMENTS AND BALANCES-METRO CENTER
The City is working with Metro Center to transition its accounting processes from a manual process to an automatic process of recordkeeping.

PETTY CASH/CHANGE-GENESIS CONVENTION CENTER
The Controller’s Office has made contact with the Genesis Center to assist them in correcting their petty cash overage.

RENTALS-GENESIS CENTER CCOVENTION CENTER
The City will assist the Genesis Center in developing forms are processes that will provided clarity on when and what amount to apply a discount, and when and how much to apply for gratuity fee.

AUTOMATIC TELLER MACHINE (ATM) –GENESIS CONVENTION CENTER
The Law Department is currently reviewing options for ATM machines contractual services at all City Buildings.